Preliminary Draft of a Bill

CONSOLIDATING THE EXISTING

General Laws Relating to Boroughs

LEGISLATIVE REFERENCE BUREAU

HARRISBURG, PA.:
WM. STANLEY RAY, STATE PRINTER
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PREFACE.

By direction of the General Assembly of 1913 (Pamphlet Laws, 1913, Page 250) the Legislative Reference Bureau was directed "to cause to be prepared, for adoption or rejection by the General Assembly, compilations, by topics, of the existing general statutes, arranged by chapters and sections, under suitable headings, with accompanying lists of statutes to be repealed." Also "to cause to be prepared codes of the existing laws on each of such topics, together with lists of statutes to be repealed, in the event of the adoption by the General Assembly of any of such codes."

Pursuant to this act several compilations have been prepared by the bureau and will be submitted to the General Assembly of 1915 for its consideration. Among them is a compilation and consolidation of the general laws of Pennsylvania relative to Boroughs, a copy of which is herewith submitted for the criticism of those interested in the subject.

Accompanying this compilation and consolidation a *codification* of this entire subject will also be presented to the next General Assembly for its consideration. In the *codification* the material will be arranged practically as in the present bill, but the entire law will be rewritten, simplified, condensed and harmonized.

In preparing this compilation the law has been taken practically as it stands. Very few changes have been made, and those only for the sake of clearness and harmony.

In a task involving so much and so varied details it is inevitable that errors have occurred—both of omission and of inclusion.

We shall be deeply gratified if the person into whose hands this preliminary draft comes will read it carefully, *criticize it fully and freely and send any resulting suggesstions or recommendations to the undersigned at an early date.*

JAMES McKIRDY,
Assistant Director,
Legislative Reference Bureau.

October 1, 1914.
Harrisburg, Penna.

(COMP.)

AN ACT

To Amend, Revise and Consolidate the Law Relating to Boroughs.

CHAPTERS.

Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same:

CHAPTER I.

PRELIMINARY PROVISIONS.

ARTICLE I.

Section 1. This act shall be known and may be cited as "The General Borough Act of One Thousand Nine Hundred and Fifteen."

Section 2. This act does not include any provisions, and shall not be construed to repeal any acts, relating to:

1. The assessment, levy and collection of taxes, except taxes on dogs.
2. The collection of municipal claims by liens.
3. The issuing of municipal bonds.
4. Election officers and conduct of elections.
5. Poor Districts.
6. Boards of health.
7. Common schools.
8. Borough and Ward Constables.
9. Justices of the Peace.
10. The giving of municipal consent to Public Service Corporations.
11. State Roads, State Aid Roads, and Private Roads.
12. Validations of elections, bonds, ordinances, and acts of corporate officers.

Section 3. The provisions of all acts or parts of acts which were in force and are repealed by this act, are herein substantially re-enacted, and shall be considered to have remained continuously in force, so that all acts done, rights accrued or vested, or liabilities incurred under such acts, shall be preserved and may be enforced as if said provisions had been continuously in force from the time of their original enactment.

Section 4. Persons in office, at the date of the approval of this act, shall continue in office until the expiration of their respective terms, and their successors shall be elected and qualify as provided for in this act.

(COMP.)

CHAPTER II.

CREATION—CHARTERS.

ARTICLE I.

INCORPORATION.

Section 1. The several Courts of Quarter Sessions, within this Commonwealth, shall have power, to incorporate any town, or village within their respective jurisdiction, and every town or village so incorporated, shall be a body corporate and politic, by the name which shall be given or sanctioned by the Court.

Section 1, Act of Apr. 1, 1834, P. L. 163.

Section 2. When application is made to the court by the inhabitants of any town or village, for the privileges conferred by this act, it shall be in writing, and shall be signed by a majority of the freeholders residing within the limits of the same. It shall set forth the name, style and title of the proposed borough, with a particular description of the boundaries thereof, exhibiting the courses and distances in words at length, and be accompanied with a plot or draft of the same.

Section 2, Act of Apr. 1, 1834, P. L. 163.

Section 3. Any application for the incorporation of a borough shall be signed by the petitioners, within three months immediately preceding its presentation to the Court.

Section 1, Act of June 2, 1871, P. L. 283. Boro of Ensworth, 5 Sup. Ct. 29.

Section 4. Hereafter in any proceeding for the incorporation of a borough under the laws of this Commonwealth the application for such incorporation, upon presentation to the court shall be filed with the clerk, and notice thereof shall be given in one newspaper of the proper county for a period of not less than thirty days immediately before the next regular term following the presentation of such application and the filing thereof, during which time exceptions may be filed to such application by any person interested, and the court at said term, after a full investigation of the case, if it shall find that the conditions prescribed by law have been complied with and shall believe that it is expedient to grant the prayer of the applicants, shall grant the same and make a decree accordingly, and said application and decree shall be recorded in the recorder's office of the proper county at the expense of the applicants.

Section 1, Act of June 26, 1895, P. L. 389.

Section 5. From thenceforth the said town or village shall be deemed an incorporated borough, and shall be entitled to the several rights, privileges and immunities conferred by this Act, subject to such modfications as may be hereafter made by the Legislature. But if the Court shall deem further investigation necessary, they may make such order thereon, as to right and justice shall appertain.

Section 3, Act of April 1, 1834, P. L. 163.

Section 6. The several courts of quarter sessions within this Commonwealth shall have power, as provided by law, to incorporate boroughs, without regard to the population thereof, which shall be subject to the provisions of this act, to fix the time and place of holding the first election therein, to designate a person to give due notice of such election and the manner thereof, to appoint a judge and inspectors at such first election from among the electors of the borough.

Section 21, Act of Apr. 3, 1851, P. L. 320.

Section 7. Whenever an application has been, or shall hereafter be made, by the free-holders of any town or village in the Commonwealth for an act of incorporation into a borough, and the boundaries fixed by the petitioners shall embrace lands exclusively used for the purposes of farming, and not properly belonging to the town or village, the courts of quarter sessions of the county where such application is

made, shall have power, at the request of the party aggrieved, to change and modify such boundaries, so as to exclude therefrom the land used for farming purposes.

Section 1, Act of Apr. 1, 1863, P. L. 200.

Section 8. The corporate style and title of boroughs incorporated under this act shall be "The Borough of ....."

Section 28, Act of Apr. 3, 1851, P. L. 320.

Section 9. All charters granted under this act shall set forth: I. The corporate style and title of the borough. II. The boundaries thereof.

Section 29, Act of Apr. 3, 1851, P. L. 320.

Section 10. In all proceedings which may be instituted, in any court of quarter sessions within this Commonwealth for the erection of boroughs, wherein a decree has been entered incorporating any town or village, an appeal, shall lie from any such decree within twenty days from the recording of such decree, by not less than three persons aggrieved thereby, to the Superior Court of this Commonwealth.

Section 1, Act of May 29, 1889, P. L. 174.

(See Act June 24, 1895, P. L. 212, Sec. 7, Cl. a.)

Section 11. The boundaries of the borough shall, as soon as practicable after its incorporation, be determined and marked, due notice being first given to the supervisors of adjoining townships, or to the corporate authorities of adjoining boroughs.

Section 25, Act of Apr. 3, 1851, P. L. 320.

CHAPTER II.

ARTICLE II.

CONSOLIDATION OF BOROUGHS.

Section 1. Whenever two or more boroughs duly incorporated under the laws of this Commonwealth situate in the same county or in different counties shall be adjacent and of such compact and contigous territory as to form one municipal division, it shall and may be lawful for the said boroughs to be consolidated into one borough,

so that all the property, rights, franchises and privileges, then by law vested in either and both of said boroughs, may be transferred to and vested in the borough formed by such consolidation.

Section 1, Act of June 6, 1893, P. L. 335, and part of Section 1, Act of April 14, 1905, P. L. 155.

Section 2. Such consolidation shall be made under the following conditions, that is to say:

First. The town council of each borough may, of their own initiative, or shall, within sixty days after being requested in writing by at least one hundred qualified electors of the borough, enter into a joint agreement, under the corporate seals of each borough, for the consolidation thereof into one borough; which joint agreement shall set forth the name of the new corporation, the number of wards into which such consolidated borough shall be divided, and the territorial boundaries thereof; and may also set forth such equitable terms as have been agreed upon for the use and disposition of the property and assets of each of said boroughs, and for the liquidation of the indebtedness of each of said boroughs, either jointly, separately, or in certain defined proportions, and the adjusting and paying the same by separate rates of taxation on all property subject to taxation within the boundaries of said boroughs, respectively. Such consolidation shall not be effected until it shall have been ratified by a majority of the votes passed by the electors of each borough at a municipal or special election.

Section 1, Act of Apr. 10, 1905, P. L. 136, and Sec. 1, Act of June 19, 1913, P. L. 540.

(See Mercersburg College case 53 Sup. Ct. P. L. 388.)

Second. Said agreement shall be submitted to the vote of the qualified electors of each of said boroughs at a special election to be held on a day to be designated in the said joint agreement, which election shall be held by the regularly constituted election officers in and for said boroughs, and in accordance with the provisions of the laws of this Commonwealth regulating elections by the people. If such special election shall be ordered within ninety days of any general election or elections for municipal officers, the election shall be held on the day now fixed for the holding of such elections. Such election shall be by ballots which shall be marked "Proposed Consolidation," and below shall be printed the words "For Consolidation" and "Against Consolidation," and the elector shall designate with an X his desire to vote for or against such consolidation. Notice of such election shall be given by proclamation by the constables of the respective boroughs in the manner provided for proclamations for elections for municipal officers, and if the majority of the votes

cast at such election in each of the said boroughs shall be in favor of the ratification of said agreement, then that fact shall be certified to the town council of each of the said boroughs by the respective election boards or return judges, and the chief burgess and town clerk of the respective boroughs shall cause a declaration of the result of such election to be indorsed upon said joint agreement, and the agreement so adopted, or a certified copy thereof, with all its indorsements shall be filed in the office of the Secretary of the Commonwealth, and a copy of such agreement and act of consolidation, duly certified by the Secretary of the Commonwealth under the seal of his office, shall be evidence of the existence of said new corporation, and upon the filing thereof, the Governor shall cause letters patent to be issued under the great seal of this Commonwealth, erecting the said consolidated boroughs into one corporation by the name set forth in the said joint agreement.

Section 2, Act of June 6, 1893, P. L. 335.

Section 3. Upon the issuance of such letters patent, the several boroughs, parties to said joint agreement, shall be deemed and taken to be one municipal corporation, by the name provided in said agreement, possessing all the rights, privileges and franchises of the respective boroughs, and to be governed and controlled in accordance with the provisions of this act; the ordinances in force in each one of the several boroughs consolidated, at the time of such consolidation, to continue in force throughout the territory for which they were originally enacted, until altered or repealed by the consolidated borough.

Section 2, Act of Feb. 26, 1903, P. L. 6.

This is an amendment of Section 3, of the Act of June 6, 1893, P. L. 335.

Section 4. Upon the consummation of the consolidation as aforesaid all and singular, the rights, privileges and franchises of each of said boroughs and all the property, real, personal and mixed, and all debts due on whatever account and other things in action belonging to each of said boroughs shall be taken and deemed to be transferred to and vested in such new borough, without further act or deed, and all property, all rights of way and all and every other interest shall be as effectually the property of the new borough as they were of the former boroughs, parties to said agreement, and the title to real estate, whether by deed or otherwise, under the laws of this Commonwealth vested in either of said boroughs shall not be deemed to revert or be in any way impaired by reason of this act: Provided, That all the rights of creditors and all liens shall be preserved unimpaired, and the respective boroughs may be deemed to continue in existence to preserve same, and all debts, liabilities and duties of

either of said boroughs shall henceforth attach to said borough and be enforced against it to the same extent as if said debts, liabilities and duties had been incurred by or contracted by it.

Section 4, Act of June 6, 1893, P. L. 335.

Section 5. Any borough formed by the consolidation of boroughs partly lying or situate in different counties shall, for all municipal purposes of government and control, be deemed and considered as under and within the jurisdiction of the courts of that county in which is situate the borough first incorporated of those forming such consolidated borough.

Section 2, Act of Apr. 14, 1905, P. L. 155.

CHAPTER II.

ARTICLE III.

RE-ESTABLISHMENT OF BOROUGHS.

Section 1. In all cases, where cities of the third class have been formed by joining together two or more boroughs, it shall be lawful for the courts of common pleas of the proper county, upon the petition of not less than one-third of the registered voters of the territory, proposed to be erected into such borough, formerly comprised within the limits of either borough, setting forth that the inhabitants of said territory wish to separate from the city of which they form a part, and to establish therein a borough organization, to appoint three commissioners, whose duty it shall be to investigate the facts set forth in such petition, and to report to the said court as to the expediency or inexpediency of granting the prayer of the petitioners.

Section 1, Act of Apr. 18, 1877, P. L. 55.

Section 2. If the facts, as set forth in the petition, are sustained by the commissioners, and their report shall be in favor of setting off such territory, named therein, from the city, they shall accompany their report with a survey and map of such territory, formerly comprising said borough, or any such part thereof, as may be described in said petition, and the court shall thereupon order an election to be held, on the next appointed day for holding a State or city election, at which time, the legal voters within said territory shall vote for or against such separation; and if a majority of votes cast at such

election shall be in favor of such separation, then the court shall make a decree declaring such territory a borough, and appoint one person qualified to serve as a member of the Senate of this Commonwealth, to be the burgess of said borough, and seven persons, qualified to serve as members of the House of Representatives of this Commonwealth, to constitute the borough council thereof, who shall hold their respective offices until the first Monday of January next succeeding the municipal election at which such officers are to be elected, as provided in Chapter Eight, Article One. From the date of such decree by the court, the territory so erected into a borough, and the inhabitants thereof, shall be subject to the provisions of this act, and shall no longer be subject to the laws, rules and ordinances of such city, but shall be separate and independent therefrom.

Section 2, Act of April 18, 1877, P. L. 55.

CHAPTER II.

ARTICLE IV.

DIVISION OF BOROUGHS.

Section 1. Whenever any incorporated borough shall include within its limits two or more villages, it shall be lawful for a majority of the freeholders, residing in any one or more of the said villages to make application, by petition in writing, to the court of quarter sessions of the county wherein such village or villages are situate, praying that the said village or villages may be set off from the said borough and erected into a new and separate borough; and upon the presentation of the said petition, the said court of quarter sessions, shall have full power and authority to set off and divide the said village or villages from the said borough and to incorporate such village or villages into a new borough.

Section 1, Act of May 29, 1889, P. L. 393.

Section 2. The petition provided for in Section 1 of this article shall be signed by the petitioners within three months immediately preceding its presentation to the court, and upon such presentation shall be filed with the clerk, and notice thereof shall be given in one newspaper of the proper county for a period of not less than thirty days immediately before the next regular term following the presentation of such petition and the filing thereof, during which time excep-

tions may be filed to such petition by any person interested, and the court at said term, after full investigation of the case, if it shall find that the conditions prescribed by law have been complied with and shall believe that it is expedient to grant the prayer of the petitioners, shall grant the same and make a decree accordingly, and said petition and decree shall be recorded in the recorder's office of the proper county at the expense of the petitioners.

A section drafted from Section 1, Act of June 2, 1871, P. L. 283, and Section 1, Act of June 26, 1895, P. L. 389.

(Borough of Ensworth, 5 Sup. Ct. 29; Throop Borough, 15 Pa. C. C. 131.)

Section 3. The said village or villages, so incorporated, shall thereupon become a body politic under such name as shall be given or sanctioned by the court, and shall be subject to the provisions of this act.

Section 2, Act of May 29, 1889, P. L. 393.

Section 4. The said court of quarter sessions shall have power to fix the time and place for holding the first election in said borough, to designate a person to give due notice of such election, to appoint a judge and inspectors of such first election, from among the electors of the borough.

Section 3, Act of May 29, 1889, P. L. 393.

Section 5. In all proceedings which may be instituted in any court of quarter sessions wherein a decree has been entered incorporating any village, or villages into a borough, in accordance with the provisions of the foregoing sections, an appeal shall lie from such decree, within twenty days after the recording thereof, by not less than three persons aggrieved thereby, to the Superior Court of this Commonwealth.

Section 1, Act of May 9, 1889, P. L. 174.

See "Incorporation of Sharon Hill Borough, 140 Pa. 250," and Act of June 24, 1895, P. L. 212, Section 7, Clause "a."

Section 6. Whenever any territory shall be detached from a borough under the procedure set forth in Sections 1, 2, 3, 4, 5 and 6, of Article 1, Chapter 3, of this act, the court of quarter sessions may make a decree directing that the portions so detached shall constitute a new borough, if the same shall be to the best interests of the several boroughs, townships and school districts affected thereby and the residents of the territory so detached; and shall order and direct a special election to be held for the election of the proper officers therefor: Provided, That no such borough shall be created, unless

the intention to do so has been set forth in the original petition filed, or after thirty days' notice, in such manner as the court may direct.

Section 4, Act of June 1, 1887, P. L. 285.

CHAPTER II.

ARTICLE V.

AMENDMENT AND ANNULMENT OF CHARTERS.

Section 1. The several courts of quarter sessions shall have power with the concurrence of the grand jury of the county, and upon application in writing of two-thirds of the taxable inhabitants of any borough to annul or alter the charter of the same.

Section 4, Act of April 1, 1834, P. L. 163.

Section 2. Such application shall be signed by the petitioners whose names are attached thereto, within three months immediately preceding its presentation to the court, and public notice of the intended application for such annulment or amendment shall be given in at least one newspaper of the proper county for a period of not less than thirty days immediately before the application shall be presented.

Section 1, Act of June 2, 1871, P. L. 283.

Section 3. The application shall be laid before the grand jury at the same term of court when presented, whenever the same can be conveniently done, and in no case later than the next subsequent term of the court. If a majority of the grand jury after a full investigation of the case shall find that the conditions prescribed by this act have been complied with, and shall believe, that it is expedient to grant the prayer of the petitioners, they shall certify the same to the court, which certificate shall be entered of record, and no further proceedings shall be had until the succeeding term of said court, at which term the judgment of the grand jury may be confirmed; and if the decree of the court shall be in conformity with the prayer of the petitioners, the said petition and decree shall be recorded in the recorder's office of the proper county at the expense of the applicants.

Section 3, Act of April 1, 1834, P. L. 163, and part of Section 1, Act of June 2, 1871, P. L. 283.

CHAPTER III.

CHANGE OF LIMITS—BOUNDARIES—WARDS.

ARTICLE I.

CHANGE OF LIMITS.

(a) ON PETITION OF FREEHOLDERS OF BOROUGH.

Section 1. The several courts of quarter sessions shall have power upon application, by and with concurrence of the grand jury, to change the limits of any borough incorporated under the provisions of Chapter 2, Article 1, of this act, and to decree such alterations as may be needful.

Section 1 and Section 3, of the Act of April 1, 1834, P. L. 163.
See Waynesboro Extension, 6. Pa. C. C. 140.
McFates Appeal, 105 Pa. 323.

Section 2. When application is made to the court by the inhabitants of such borough for the privileges conferred by Section 1, of this article, it shall be in writing, and shall be signed by a majority of the freeholders residing within the limits of the same. It shall set forth a particular description of the boundaries thereof, exhibiting the courses and distances in words at length, and be accompanied with a plot or draft of the same.

Section 2, Act of April 1, 1834, P. L. 163.
Incorporation of Wilkinsburg Boro, 131 Pa.368.

Section 3. The said application shall be laid before the grand jury, at the same term of court when presented, whenever the same can be conveniently done, and in no case later than the next subsequent term of court, and shall be signed by the petitioners whose names are attached thereto, within three months immediately preceding its presentation to the court; and public notice of the intended application for such alteration shall be given in at least one newspaper of the proper county for a period of not less than thirty days immediately before the petition shall be presented.

Section 1, Act of June 2, 1871, P. L. 283.

Section 4. If a majority of the grand jury after full investigation of the case shall find, that the conditions prescribed have been complied with, and shall believe that it is expedient to grant the prayer

of the petitioners, they shall certify the same to the court, which certificate shall be entered of record, and no further proceedings shall be had, until the succeeding term of the said court, at which term the judgment of the grand jury may be confirmed; and if the decree of the court shall be in conformity with the prayer of the petitioners, the said petition and decree shall be recorded in the recorder's office of the proper county at the expense of the applicants, and if the court shall deem further investigation necessary, they may make such order thereon as to right and justice shall appertain.

Section 3, Act of April 1, 1834, P. L. 163.

Section 5. Whenever the court of quarter sessions shall make a decree changing the limits of any borough, as provided by the foregoing sections of this article, by detaching therefrom any portion of the territory included therein, it shall be the duty of said court to make a further decree, directing that the portion so detached shall constitute a new borough, a new township, or become part of an adjacent borough, township or townships, as to said court may seem for the best interests of the several boroughs, townships and school districts affected thereby, and the residents of the territory, so detached, and in the case of the erection of a new borough, or township, or school district, shall order and direct a special election to be held for the election of proper officers therefor: Provided, That no new borough shall be created, unless the intention to do so has been set forth in the original petition filed, or after thirty days' notice, in such manner as the court may direct.

Section 4, Act of June 1, 1887, P. L. 285.

Section 6. In case the officers of the borough, from which any territory detached, or any of them, shall reside in the portion so detached, they shall, from the time of the decree, cease to exercise the function of said office or offices, and the same shall be and become vacant, and shall be filled in the manner prescribed by law for filling vacancies in such offices. And the remaining members of council shall constitute a quorum for the transaction of all business, until the vacancies shall have been filled as herein provided.

Section 5, Act of June 1, 1887, P. L. 285.

Section 7. The provisions of the foregoing sections of this article which require the application for change of borough limits to be laid before the grand jury, shall not apply to any proceeding for the change of borough limits by the detachment of territory where such territory is annexed to a contiguous township.

Section 5, Act of May 28, 1907, P. L. 264.

(b) BY ANNEXATION ON PETITION TO COURT OF QUARTER SESSIONS.

(1) Where territory is in one county.

Section 8. The several courts of quarter sessions, by and with the concurrence of the grand jury, shall have power to change the limits of any incorporated borough within this Commonwealth.

Section 1, Act of May 17, 1883, P. L. 36.

Amending Section 1, Act of June 11, 1879, P. L. 150. See 20 W. N. C. 494.

Section 9. When an application is made to the court by the inhabitants of any lots, outlots, or other tracts of land, adjacent to a borough, to be annexed to said borough, it shall be in writing and shall be signed by a majority of the freeholders residing within the limits to be annexed, and shall set forth a particular description of the boundaries, exhibiting the courses and distances in words at length, and be accompanied with a plot or draft of the same; it shall also appear by proof satisfactory to the court, that a notice of the intended application has been personally served upon the burgess and town council of the borough, and the supervisors of the township in which the petitioners then reside, and that public notice has been given of such application in at least one newspaper of the proper county, by publication for a period of not less than thirty days immediately before the petition shall be presented.

Section 2, Act of June 11, 1879, P. L. 150.

Section 10. The court shall cause the aforesaid application to be laid before the grand jury when in session, and if a majority of said grand jury, after a full investigation of the case, shall find that the conditions prescribed by this act have been complied with, and shall believe that it is expedient to grant the prayer of the petitioners, they shall certify the same to the court; which certificate shall be entered of record and may be confirmed by the court; and if the decree of the court shall be in conformity with the prayers of the petitioners, the said petition and decree shall be recorded in the recorder's office of the proper county, at the expense of the applicants; and from thenceforth the said limits so annexed shall be deemed, taken and allowed to be a part of said borough, and subject to the jurisdiction and government of the municipal authorities of said borough, as fully as if the same had been originally a part thereof; but if the court shall deem further investigation necessary, they may take such order thereon as to right and justice shall appertain.

Section 3, Act of June 11, 1879, P. L. 150.

(2) Where territory is in two or more counties.

Section 11. Upon the petition of a majority of the taxable inhabitants of any described territory, situate in two or more counties in this Commonwealth, to the courts of quarter sessions of the peace of all the counties in which said described territory may be situate, expressing a desire to have said territory included within the limits of any borough adjacent thereto, it shall be the duty of each of said courts to appoint one commissioner, who, when appointed, shall select a third one who shall be a surveyor, to view the territory sought to be so annexed, and make report of their proceedings to the courts to which the petitions have been presented.

Section 1, Act of June 8, 1874, P. L. 281.

Section 12. The commissioners aforesaid shall, within sixty days after their appointment and selection, and after being sworn or affirmed, view the territory sought to be annexed; and if they shall agree that it would be wise and proper to grant the prayers of the petitioners, they shall proceed to survey and ascertain the lines of the territory proposed to be annexed, and shall, at the next term of said courts, make reports, and in the said reports shall state particularly that they were all present at the view: Second, whether they were severally sworn or affirmed: Third, that they deem it wise and proper that the territory described should be annexed, in accordance with the prayers of the petitioners. They shall also annex and return to the courts a plot or draft thereof, stating the courses and distances, and the quantity of land therein contained.

Section 2, Act of June 8, 1874, P. L. 281.

Section 13. If the courts shall each approve the report of the commissioners, the whole proceedings shall be entered on record, and then the territory so annexed shall be taken as within the limits of said borough for all intents, for borough purposes.

Section 3, Act of June 8, 1874, P. L. 281.

Section 14. If at the term of the courts to which the said reports are made a petition should be presented, by any person or persons interested therein, praying that a rule should be granted on any two or more of those signing the original petition, to show cause why said report should not be approved, the court to which said petition is presented, may, in its discretion grant said rule, making it returnable at no greater distance of time than the following term of the said court; and if, upon the hearing of said rule, the court should be of the opinion that it would be unjust to those claiming to be aggrieved, to have said territory annexed, as aforesaid, then the report of the commissioners shall not be affirmed, and the persons signing the

original petition shall pay the costs of the whole proceedings; but, in case the rule is discharged, then the costs upon the same shall be paid by those petitioning to have it issued.

Section 4, Act ofJune 8, 1874, P. L. 281.

Section 15. The commissioners aforesaid shall each receive five dollars per day, for each and every day necessarily employed in the discharge of their duties, to be paid out of the funds of the borough to which the territory is annexed, in case they report in favor of granting the prayer of the petitioners, and the approval thereof; but in case the report should be against annexation, or should not be approved by the courts, then the costs to be paid by the petitioners.

Section 5, Act of June 8, 1874, P. L. 281.

(c) BY ANNEXATION ON PETITION TO BURGESS AND COUNCIL.

Section 16. The burgess and council of any borough or incorporated town shall have power, on petition of a majority of the freehold owners of any lot or outlots of any section of land lying adjacent to said borough or incorporated town, in the same or an adjoining county, to declare, by ordinance, the admission of such lots or outlots. Whenever the borough or town authorities shall extend the limits of such borough or town, as aforesaid, they shall file in the court of quarter sessions of the proper county, or counties, a plan or plot showing the boundary of the borough or town and of the section admitted, together with the certified copy of the ordinance, and a description of the boundaries of the borough or town, and of the borough or town as extended, giving the courses and distances in words, at length; which section shall, after the filing of the matter as aforesaid, be deemed part of said borough or town, and subject to its jurisdiction and government.

Section 1, Act of Mar. 21, 1907, P. L. 25, amending 1903, P. L. 247; Washington Boro, 26 P. S. C. 296; Donora Boro, 26 P. S. C. 300; Extension of Kutztown Boro, 19 D. R. 943.

(d) BY DETACHMENT OF TERRITORY.

(1) Where it is annexed to a contiguous township.

Section 17. The court of quarter sessions of the peace of the proper county shall have power to change the limits of any incorporated borough within this Commonwealth, by detaching therefrom any portion of the territory embraced within said limits and by annexing the same to any contiguous township or townships, in accordance with the provisions of this act.

Section 1, Act of May 28, 1907, P. L. 264.

Section 18. The application to the said court, for the purpose of diminishing the territory of a borough and annexing the same to any contiguous township or townships, shall be in writing, and shall be signed by a majority of the freeholders residing within the limits of said borough; or, an application can be made by a freeholder or freeholders, where the dividing line between a borough and a township shall separate lands of the said freeholder or freeholders into two or more parts. The application shall contain a proper description of the portion or portions of borough territory proposed to be detached, showing the name or names of the contiguous townships, exhibiting the courses and distances thereof, in words at length, and shall be accompanied by a plot or draft of the same.

Section 2, Act of May 28, 1907, P. L. 264.

Section 19. Upon presentation of said application to the court, the court shall order the same to be filed, and shall direct notice thereof to be given to the supervisors of the townships affected thereby, and to the president or secretary of council of said borough, and shall fix a time for hearing the matter; and the notice herein provided shall be served at least twenty days prior to the day of hearing; and if the said court, after a full investigation of the case, believe it is expedient to grant the prayer of the applicant or applicants, it shall grant the same, and enter decree accordingly; and the said application and decree shall be forthwith recorded in the recorder's office of the proper county, at the expense of the applicant or applicants; and the court shall, at the same time, further decree to what adjacent township or townships the territory so detached shall be annexed, as the said court may deem for the best interests of the several districts affected thereby, or the interest of the applicant or applicants where lands may be divided into two or more parts; and from and after the entry and recording of said decree and application, the boundaries and limits of any such borough and of the adjacent township or townships shall be deemed and taken as fixed in said decree of court.

Section 3, Act of May 28, 1907, P. L. 264.

(2) By reason of natural or artificial obstructions or causes.

Section 20. In all cases where, by reason of natural or artificial obstructions or causes, any part of any borough is or shall be divided or cut off from the main portion of such borough, or where such part is so located that access to the main portion thereof can only be had by passing through some other township or borough, and it shall be for the best interests of such part of any borough, so cut off or located, and of the inhabitants thereof, that such part should be stricken off from the borough of which it is a part and be annexed to some ad-

joining township or borough, the court of quarter sessions of peace of the county, wherein such borough may be situate, shall have power, on presentation of a petition signed by not less than two-thirds of the inhabitants and the owners of not less than two-thirds in value, as shown by the last assessment for county taxation, of the real property situate in such part of any borough, to decree such alterations of the boundaries of such boroughs as may be affected thereby as shall be for the best interests of such part of any borough, so cut off or located as aforesaid.

Section 1, Act of May 11, 1901, P. L. 177.

Section 21. Upon the presentation of a petition, as provided in Section 20 of this article, the court shall direct notice to be given to the town councils of such boroughs as shall be affected by such change, and fix a day for hearing the matter, and, after hearing all parties in interest, the court shall make such decree as to the court shall seem right and proper.

Section 2, Act of May 11, 1901, P. L. 177.

CHAPTER III.

ARTICLE II.

BOUNDARIES.

Section 1. Whenever any borough is bounded by the nearest margin of any navigable stream of this Commonwealth and the opposite township, borough or city, as the case may be, is also bounded by the nearest margin of the same stream, the middle of such stream shall be deemed and taken to be the boundary between such townships, boroughs or cities, as the case may be.

Section 1, Act of May 24, 1887, P. L. 203.

Section 2. The several courts of quarter sessions shall have authority within their respective counties to cause disputed lines and boundaries between two or more boroughs and cities, or boroughs and townships, to be ascertained and established.

Section 1, Act of June 3, 1893, P. L. 284.

Section 3. Upon application by petition to the court of quarter sessions for the purpose of ascertaining and establishing disputed lines or boundaries between two or more boroughs, boroughs and cities, or boroughs and townships, the court shall appoint three impartial men, one of whom shall be a competent surveyor who, after having given notice as directed by the court, shall view the said lines or boundaries; and it shall be the duty of the said commissioners so appointed, or any two of them, to make a plot or draft of the lines proposed to be ascertained and established, if the same cannot be fully designated by natural lines or boundaries, all of which they, or any two of them, shall report to the next court of quarter sessions, together with their opinion of the same, and at the term after that at which the report shall be made, the court shall take such order thereupon as to it shall be just and reasonable: Provided, That upon petition a review may be ordered by said court: And provided further, That an appeal may be taken from the decision of said commissioners of view or review and the question of fact in dispute determined by a feigned issue to be framed by the court after the manner of framing feigned issues under existing laws, to be certified to the court of common pleas of the proper county.

Section 2, Act of June 3, 1893, P. L. 284.

Section 4. That the commissioners so appointed shall each receive three dollars per day, except the surveyor, who shall receive five dollars per day, and mileage at the rate of ten cents per mile for every mile necessarily traveled, for each and every day necessarily employed while in the performance of their duties, to be paid out of the county funds.

Section 3, Act of June 3, 1893, P. L. 284.

Section 5. That whenever a line is finally established by virtue of this act the court shall cause the same to be marked with stone monuments to be placed at intervals, not exceedingg fifteen hundred feet from each other, the expense thereof to be reasonable and to be first approved by the court, and to be borne equally by the municipalities interested, and the court shall compel the payment of the same according to law.

Section 4, Act of June 3, 1893, P. L. 284.

Section 6. Where the dividing line between two adjoining boroughs is wholly or in part uncertain, or where it is the desire of the authorities of adjoining boroughs that the dividing line between said boroughs should be changed, the proper borough authorities shall have the power to fix and determine such boundary line, or part thereof, or to change the same, in the manner hereinafter set forth.

Section 1, Act of May 5, 1911, P. L. 176.

Section 7. Such dividing line shall be fixed and determined or changed, by ordinances duly passed by the councils of each borough, by the affirmative votes of not less than two-thirds of all the members elected to each of said councils, and approved by the respective burgesses. A plan or plot showing such dividing line, and the change or changes in the same, if any, together with copies of the ordinances authorizing the action taken, shall be filed in the office of the clerk of the court of quarter sessions of the proper county, within thirty days after the approval of the last ordinance relating to the matter; and any citizen of either borough shall have the right to appeal from said ordinances within thirty days of the filing of such plan and copies. If an appeal is filed, the court shall have full power and authority to make such orders and decrees as to right and justice shall appertain.

Section 2, Act of May 5, 1911, P. L. 176.

Section 8. In all cases where the dividing lines between adjoining boroughs, situate in the same county, separate the property of the same owner into two or more parts, the court of quarter sessions of the peace of the county in which the said boroughs are situate, shall have power, and are hereby authorized, by a decree of the said court, to so change the said dividing lines, as that the whole of the said property shall be hereafter located in one or the other of the said boroughs.

Section 1, Act of June 13, 1883, P. L. 98.

Section 9. This jurisdiction shall be exercised only upon the petition of the borough authorities, of one or the other of the said boroughs, or upon the petition of the said owner; and the expenses and cost thereof shall be paid by the petitioner, nor shall such change be made without the written consent of all the said parties, who may not be petitioners, being first filed of record.

Section 2, Act of June 13, 1883, P. L. 98.

CHAPTER III.

ARTICLE III.

WARDS.

Section 1. The several courts of quarter sessions shall have authority, within their respective counties, to divide boroughs into wards, to divide any ward already erected into two or more wards,

to alter the lines of any two or more adjoining wards, so as to suit the convenience of the inhabitants thereof, and to cause the lines or boundaries to be ascertained and established.

Section 1, May 14, 1874, P. L. 159.

Section 2. The several courts of quarter sessions shall have authority, within their respective counties, to divide boroughs into wards, by erecting two or more wards, or parts of two or more wards, into one ward, so as to suit the convenience of the inhabitants thereof.

Section 1, Act of Mar. 24, 1877, P. L. 47.

Section 3. Upon application by petition of at least twenty freeholders, resident in the borough or ward, to a court of quarter sessions, for the purpose set forth in Sections One and Two of this article, the said court shall appoint three impartial men to inquire into the propriety of granting the prayer of the petition; and it shall be the duty of the commissioners so appointed, or any two of them, to make a plot or draft of the borough or wards proposed to be divided, of the proposed new wards and the division lines proposed to be made thereon, or of the lines proposed to be altered of two or more adjoining wards, or of the lines proposed to be ascertained and established, as the case may be, if the same cannot be fully designated by natural lines or boundaries; all which they, or any two of them, shall report to the next court of quarter sessions, together with their opinion of the same.

Section 2, Act of May 14, 1874, P. L. 159.

Section 4. When a report has been made by said commissioners, it shall be confirmed nisi by said court, which confirmation shall become absolute, unless exceptions be filed to the same, not later than the third day of the next term of said court; and should exceptions be filed, as aforesaid, they shall be disposed of on evidence, as said court shall deem just: Provided, That if desired, a review may be had, if, in the opinion of the court, it may be necessary to secure a fair adjudication of the same; said review to be asked for before the report has been confirmed absolutely, however.

Section 3, Act of May 14, 1874, P. L. 159.

Section 5. The pay of commissioners appointed to divide boroughs into wards, in the several courts of this Commonwealth, shall be three dollars ($3.00), and the pay of surveyors or artists, for that purpose, shall be five dollars ($5.00) for each day necessarily employed in the duties of their office, and five cents per mile for each mile necessarily traveled in the discharge of their duties. And the same shall be paid by the proper county in all cases, at the time of the session or term of court to which their report is rendered and filed, and

the petitioners asking for their appointment shall pay the same amount into the county treasury in all such cases as the court by order may direct; and the court shall require said petitioners to file a bond, together with their petition, in a sufficient sum to secure the payment of the same, when the same is concluded.

Section 1, Act of April 4, 1907, P. L. 44.

Section 6. The councils of any incorporated boroughs of this Commonwealth shall have the power to change by ordinance, the name or names of any ward or wards to a number or numbers, or to change the number or numbers of any ward or wards to name or names: Provided, That no such ordinance shall go into force and effect until a certified copy thereof be filed with the clerk of the court of quarter sessions of the proper county.

Section 1, Act of June 24, 1895, P. L. 241.

Section 7. Such borough officers as may be in office at the time of the division of any such borough into wards as aforesaid, shall remain in office until the expiration of the terms for which they may have been elected; and in case any vacancy shall occur, the same may be filled by appointment of the court of quarter sessions of the proper county, until the first Monday of January next succeeding the election at which such officers are elected as provided in chapter 8, article 1.

(COMP.)

CHAPTER IV.

ADJUSTMENT OF INDEBTEDNESS.

ARTICLE I.

(a) WHEN INCORPORATED FROM A TOWNSHIP.

Section 1. Every borough incorporated from within a township or townships, shall be a distinct district separate therefrom, but shall pay just proportion of the indebtedness of such township or townships for the repairs of roads existing at the time of its incorporation.

Section 24, Act of April 3, 1851, P. L. 320.

Section 2. Every borough which has been or may hereafter be erected out of any township, or parts of adjoining townships, shall share, in just proportion in the rights and liabilities of said township or townships, existing at the time of its incorporation; the proportion of each borough to be ascertained by reference to the assessment of said township or townships for the year in which such borough was incorporated; and in all pending actions by or against said township or townships, and in all actions thereafter brought by or against the same, the borough or boroughs liable or entitled shall, by rule of court, be made co-parties, plaintiff or defendant, as the case may be.

Section 1, Act of June 12, 1878, P. L. 184.

Section 3. Whenever any township has been or may hereafter be entirely merged into more than one borough, and the township shall thereby have ceased to exist, the rights and liabilities of said township shall devolve, in just proportion, upon the said several boroughs, but no borough shall be entitled or liable, except as to such rights and liabilities as existed at the time of its incorporation; and the proportion of each borough, shall be ascertained in like manner as prescribed in the second section of this article; and in all actions pending by or against said township, the borough or boroughs entitled or liable shall, by rule of court, be substituted instead of said township; and in all actions thereafter brought on matters in behalf of or against said township, the borough or boroughs entitled or liable, shall be the proper parties to prosecute or defend the same, as the case may be.

Section 2, Act of June 12, 1878, P. L. 184.

Section 4. Whenever any borough has been or may hereafter be erected, or whenever any township has been or may hereafter be entirely merged into more than one borough, the court of common pleas of the proper county, sitting in equity, shall have power, upon the application of any one or more creditors of said township or townships, or upon the application of the proper authorities of any said township or townships, borough or boroughs, or either of them, by a suit or suits in equity, to ascertain the indebtedness of said township or townships, including judgments against the same, at the time of incorporation of each of said boroughs, respectively, and to equitably adjust and apportion said indebtedness between said township or townships and borough or boroughs, and between the several boroughs into which any township shall have become merged, and shall thereupon decree the proportion of said indebtedness which each township and borough shall pay; in making said adjustment, as applied to each of said boroughs, reference shall be had to the time of incorporation of such borough, and to the debts then existing, whether since paid or not, and also to the several

amounts of township taxes then unexpended; and the said adjustment shall be based upon the assessment of said township or townships, for the year in which such borough was incorporated. In ascertaining said indebtedness neither pending actions nor claims against said township or townships founded on tort, shall be included, unless the same shall in the meantime have been prosecuted to final judgment.

Section 3, Act of June 12, 1878, P. L. 184.

Section 5. Three months' public notice shall be given under the order of said court to all persons having claims against said township or townships, excepting claims in pending actions and claims founded on tort as aforesaid, to present the same, on or before the day therein named; and all persons not presenting their said claims on or before the said day, shall be forever debarred from enforcing collection of the same; said notice to be published in not less than two newspapers of the proper county, if there are so many printed in said county, or if there be but one newspaper printed therein, then said notice shall be printed in the same, and shall be published in any other manner directed by said court.

Section 4, Act of June 12, 1878, P. L. 184.

Section 6. The said court shall have power to make all needful rules, orders and decrees in the premises, and for the collection and payment by said borough or boroughs, of the share of said indebtedness respectively apportioned to them, and may order the proper officers of any said borough or boroughs to collect by special taxation an amount sufficient to pay the same either in any one year, or by annual instalments, as to the court shall appear just and reasonable.

Section 5, Act of June 12, 1878, P. L. 184.

Section 7. The said court shall have power to appoint a receiver, to whom the money due from each township and borough for the purpose aforesaid shall be paid, and it shall be his duty to pay over the amount so received by him to the holders of said township indebtedness, in such order or in such proportions as the court shall direct; and in case of any special taxation in any said township or borough, or in all of them, being ordered as aforesaid, the collector of said special tax shall pay the same directly to said receiver.

Section 6, Act of June 12, 1878, P. L. 184.

Section 8. Each borough, in any of the cases aforesaid, shall be credited with the proper share of such indebtedness due to said township or townships at the time of incorporation of such borough, as shall have since been collected, and shall likewise be credited with its proper share of any unappropriated balance in the treasury of

said township or townships, at the end of the current year during which such borough shall have been incorporated; and the said court shall have like power to equitably adjust and apportion the same.

Section 7, Act of June 12, 1878, P. L. 184.

Section 9. The costs of said proceedings shall be paid by the said several townships and boroughs, in such proportions as the said court shall adjudge; and the orders and decrees of the said court in such proceedings may be enforced by attachment.

Section 8, Act of June 12, 1878, P. L. 184.

Section 10. Whenever any township has been or shall hereafter be changed or merged into one borough, the said borough shall succeed to all the rights and liabilities of said township; and in all actions pending by or against said township, the said borough shall be substituted as party instead of said township; and in all actions thereafter brought for matters in behalf of or against said township, the said borough shall be the party plaintiff or defendant, as the case may be, instead of said township.

Section 9, Act of June 12, 1878, P. L. 184.

(b) WHEN BOROUGHS ARE RE-ESTABLISHED.

Section 11. Whenever any borough shall be erected from a city of the third class formed by joining together two or more boroughs as provided in Chapter 2, Article 3, of this act, the court of common pleas shall immediately appoint an auditor, whose duty it shall be to inquire into, and ascertain as nearly as possible the entire indebtedness existing and owing on the part of such city from which territory has been set off and erected into a borough; he shall likewise take into account, and embrace in a report to be made by him to the said court, the cost of the public buildings, and all property owned, in whole or in part, by such city, purchased at the general expense of the same, and show therein how much of said indebtedness would be the proportionate share of such debt, properly and justly chargeable to the inhabitants and property embraced in the territory so set off from such city, after reasonable and proper allowance for a proportionate credit for the value of the property owned and purchased by said city prior to the establishment of a borough in pursuance of this act.

Section 3, Act of April 18, 1877, P. L. 55.

Section 12. Should there be any indebtedness remaining which would be justly chargeable to the borough erected out of territory formerly a part of any city of the third class, as provided in this

act, then the authorities of such borough are hereby required to issue and deliver to the proper authorities of such city, interest-bearing bonds, payable on the part of said borough only in liquidation of so much as may be the ascertained proportionate share of such debt as was owing on the part of such city, at the time of the court's decree declaring a borough as herein provided.

Section 4, Act of April 18, 1877, P. L. 55.

(c) WHEN LIMITS ARE CHANGED AND BOROUGHS DIVIDED.

Section 13. Whenever proceedings shall be commenced in any court of this Commonwealth for the purpose of changing the limits of any borough, by annexing thereto any adjacent tracts of land, or detaching therefrom any territory included therein as provided in Chapter 3, Article 1, Sections 1, 2, 3, 4, 5, 6, and 7, or for the purpose of changing the limits of any borough by annexing thereto any adjacent tracts of land as provided in Chapter 3, Article 1, Sections 8, 9 and 10, or in the case of the division of boroughs as provided in Chapter 2, Article 4, of this act, and the same shall have been approved by the grand jury to which the application shall have been submitted in all cases where such approval is required, it shall be the duty of said court, before entering the decree confirming the same, to appoint an auditor, who shall ascertain the existing liabilities of the several boroughs, townships and school districts, which may be affected by the said change of limits, the amount and value of the property owned by each, and the amount and value of the property passing to or from each borough, township or school district, and the assessed valuation of all property liable to taxation for borough, township or school purposes, as shown by the last annual assessment in each of said boroughs, townships and school districts and within the limits of the part annexed to or detached from said borough, and shall report the same to said court, with the form of a decree adjusting the liabilities for all indebtedness and the value of property held or acquired by each justly and equitably upon said borough, township and school district, respectively; and said court shall be authorized to direct the amounts that shall be paid one to the other, and the time and mode of payment, and, if necessary to a proper and just adjustment of the same, may order and direct a special tax to be levied upon the property so annexed to or detached from said borough for the payment of so much of the indebtedness as may be awarded against it, and direct how the same shall be assessed and collected.

Section 1, Act of June 1, 1887, P. L. 285. See Sharon Hill Boro, 140 Pa. 250.

Section 14. Said court shall, at the time of making such appointment of an auditor, direct notice to be given of the time and place of meeting of the auditor and of the time of making his report and of the hearing thereon, in such a manner and for such time as it may deem necessary and proper to give full notice to all parties interested, and shall make such other and further orders as may, to it, seem meet and proper.

Section 2, Act of June 1, 1887, P. L. 285.

Section 15. Upon making the decree hereinbefore provided, the same shall be conclusive upon all parties interested, and the said court shall have power to enforce the same by appropriate orders and decrees, and by attachment of all public officers refusing to obey the same, and to punish such disobedience, by fine and imprisonment, or either, at the discretion of the court.

Section 3, Act of June 1, 1887, P. L. 285.

(d) WHEN THE TERRITORY IS DETACHED AND ANNEXED TO A TOWNSHIP.

Section 16. Whenever, under the provisions of Chapter 3, Article 1, Sections 17, 18 and 19, of this act, the court shall decree the alteration of the boundaries of any township or borough, the court shall appoint an auditor, who shall give such notice as the court shall direct to all parties in interest; and, after having heard the same, and made such investigation as may be necessary therefor, shall report to the court the total valuation of the several townships or boroughs and school districts affected by the alteration decreed, the assessed valuation of such portion of any township, borough, or school district as shall by said alteration be cut off from one and added to another township, borough, or school district, and also the amount of the indebtedness of the several townships, boroughs, or school districts affected by such alteration, and the value of all property that shall be tranferred by reason of such alteration in boundaries from one township, borough or school district to another; and shall also report a form of decree, making such an adjustment of the indebtedness and property of the several townships, boroughs, and school districts as shall be equitable and just, which report and decree shall be confirmed nisi by the court, the confirmation to become absolute in ten days, unless exception be filed thereto or an appeal to be taken by some of the parties in interest, and whenever such decree shall become final, either without appeal or after appeal, the court shall enforce the same in such manner as decrees in equity are enforced.

Section 4, Act of May 28, 1907, P. L. 264.

(e) WHEN TERRITORY IS DETACHED BY REASON OF NATURAL OR ARTIFICIAL OBSTRUCTIONS OR CAUSES.

Section 17. Whenever under the provisions of Chapter 3, Article 1, Sections 20 and 21, of this act, the court shall decree the alteration of the boundaries of any borough, the court shall appoint an auditor, who shall give such notice as the court shall direct to all parties in interest, and, after having heard the same and made such investigation as may be necessary therefor, shall report to the court the total valuation of the several townships or boroughs and school districts affected by the alteration decreed, the assessed valuation of such portion of any borough or school district as shall by said alteration be cut off from one and added to another township, borough or school district, and also the amount of the indebtedness of the several townships, boroughs or school districts affected by such alteration, and the value of all property that shall be transferred by reason of such alteration in boundaries from one borough or school district to another; and shall also report a form of decree, making such an adjustment of the indebtedness and property of the several townships, boroughs and school districts as shall be equitable and just, which report and decree shall be confirmed nisi by the court, the confirmation to become absolute in ten days unless exception be filed thereto or an appeal be taken by some of the parties in interest; and whenever such decree shall become final, either without appeal or after appeal, the court shall enforce the same in such manner as decrees in equity are enforced.

Section 3, Act of May 11, 1901, P. L. 177.

CHAPTER V.

GENERAL POWERS.

ARTICLE I.

Section 1. Every borough incorporated, as provided in Chapter two of this act, shall have power:

I. To have succession by its corporate name perpetually.

II. To sue and be sued, to complain and defend, in all courts of record, and elsewhere.

III. To make and use a common seal, and alter the same at pleasure.

Part of Section 1, Act of April 3, 1851, P. L. 320.

IV. To hold, purchase and convey such real and personal estate as the purposes of the borough shall require, not exceeding the yearly value of three thousand dollars.

Part of Section 1, Act of April 3, 1851, P. L. 320, and Section 31, Act of April 3, 1851, P. L. 320.

Section 2. The powers of the borough shall be vested in the corporate officers designated in Chapter seven of this act, they shall have power:

Draft from Section 2, Act of April 3, 1851, P. L. 320.

I.—To regulate the roads, streets, lanes, alleys, common sewers, public squares, common grounds, footwalks, pavements, gutters, culverts, and drains, and the heights, grades, widths, slopes, and forms thereof, and they shall have all other needful jurisdiction over the same; and they shall have power to survey, lay out, enact, and ordain footwalks, pavements, gutters, culverts, and drains over and upon the lands abutting on and along the sides of turnpikes, roads, and State highways, which may be within the limits of said boroughs; and, with the consent of the companies owning or controlling such turnpike roads, or with the consent of the State Highway Commissioner controlling said State highway, on, over, and upon the beds of said turnpike roads or said State highways, within the limits of said boroughs; and over and upon lands abutting on and along the side or sides of public roads, where the said roads are outside the limits of said boroughs, and the lands over and upon which said sidewalks, pavements, gutters, culverts, and drains are to be surveyed, laid out, enacted, and ordained are inside the limits of the said boroughs; and to fix the size and width thereof, and to require the grading, curbing and guttering thereof by the owner or owners of the land, respectively, fronting thereon, in accordance with the general regulations prescribed.

Section 1, Act of June 5, 1913, P. L. 411, amending Section 2, Clause 4, Act of April 3, 1851, P. L. 320, as amended by the Act of May 22, 1883, P. L. 39, and May 24, 1901, P. L. 299.

II. To prescribe such fees as they may deem proper for the services of their officers in the adjustment of grades, curbs, lines of streets and the like, and to enforce the payment of the same.

Part of Section 2, Clause 23, Act of April 3, 1851, P. L. 320.

III. To establish a nightly watch, to light the streets, to provide a supply of water for the use of the inhabitants, to make all needful

regulations for the protection of the pipes, lamps, reservoirs and other constructions or apparatus and prevent the waste of water so supplied.

Section 2, Clause 20. Act of April 3, 1851, P. L. 320.

IV. To construct and maintain in any of the highways within the boroughs limits, comfort and waiting-stations and drinking fountains, or either, for the convenience of the traveling public; the damages that may accrue to abutting properties by reason of the construction of the aforesaid improvements, or either of them, to be ascertained and collected in the same manner as provided in Chapter six, Article eight.

Sections 1 and 2, Act of June 27, 1913, P. L. 632.

V. To erect proper and suitable watering troughs at an expense not exceeding twenty dollars.

Section 1, Act of June 24, 1885, P. L. 168, amending Section 1, Act of April 28, 1876, P. L. 51.

VI. To prohibit and remove any obstructions in the highways of the borough, and any nuisance or offensive matter, whether in the highways or in public or private ground, and to require the removal of the same by the owner or occupier of such grounds; in default of which, the corporation may cause the same to be done, and collect the cost thereof, with twenty per centum advance thereon, in the manner provided, in Chapter six, Article twelve, Sections two and three of this act.

Section 2, Clause 13, Act of April 3, 1851, P. L. 320.

VII. To make such regulations relative to accumulations of manure, compost and the like in barns, stable-yards and other places, and to prohibit the keeping of hogs within the borough, or within such limits within the same as they may prescribe.

Section 2, Clause 15, Act of April 3, 1851, P. L. 320.

VIII. To make all needful regulations respecting vaults, cesspools and drains.

Part of Section 2, Clause 7, Act of April 3, 1851, P. L. 320.

IX. To prohibit accumulations of garbage or rubbish upon private properties within their respective limits, and to prescribe penalties for the violation thereof.

Section 1, Act of June 5, 1913, P. L. 434, No. 286.

X. To make all needful rules and regulations for the care and removal of garbage and other refuse material, including the impo-

sition and collection of reasonable fees and charges therefor, and to provide fines and penalties for the violation of such rules and regulations.

Section 2, Act of May 25, 1907, P. L. 230.

XI. To erect, operate, and maintain garbage plants, or to provide other means for the collection, destruction, or removal of garbage and other refuse material; and to provide for the payment of the cost and expense thereof, either in whole or in part, out of the funds of the borough.

Section 1, Act of May 25, 1907, P. L. 230.

XII. To prohibit within the borough the carrying on of any manufacture, art, trade or business which may be noxious or offensive to the inhabitants.

Part of Section 2, Clause 14, Act of April 3, 1851, P. L. 320.

XIII. To make such other regulations as may be necessary for the health and cleanliness of the borough.

Section 2, Clause 17, Act of April 3, 1851, P. L. 320.

XIV. To make regulations relative to the cause and management of fires, and within such limits within the borough as they may deem proper to prescribe; and to authorize the borough authorities to appropriate money for the purchase of fire-engines for the use of said borough, and to fire companies.

Section 2, Clause 18, Act of April 3, 1851, P. L. 320.

XV. To pass such ordinance as may be necessary to regulate and prevent the erection of any wooden dwelling houses, shops, warehouses, stores, carriage-houses, stables, or other frame tenement within the limit of the respective boroughs.

Section 1, Act of May 23, 1907, P. L. 203.

XVI. To establish general regulations for the construction of new buildings and the repair of old ones; and to require that, before work begins, municipal approval of plans and specifications therefor be secured; and to provide for inspection of such construction and repair, including the appointment of one or more building inspectors; to prescribe limits wherein none but buildings of incombustible materials and fire-proof roofs shall be erected or substantially reconstructed or removed thereinto; and to provide penalties for violation of such ordinance and building regulations. Any building erected, reconstructed, or removed, contrary to the provisions of any ordinance passed for any of the purposes specified in this clause is declared to be a public nuisance, and abatable as such.

Section 1, Act of May 8, 1907, P. L. 184, No. 147.

XVII. To prohibit the manufacture, sale or exposure of fire-works or other inflammable or dangerous articles, and to limit and prescribe the quantities that may be kept in one place of gunpowder, fire-works, turpentine and other inflammable articles, and to prescribe such other safeguards as may be necessary.

Part of Section 2, Clause 14, Act of April 3, 1851, P. L. 320.

XVIII. To make all needful regulations respecting the foundations and party-walls of buildings, and partition fences.

Section 2, Clause 7, Act of April 3, 1851, P. L. 320.

XIX. To prescribe such fees as they may deem proper for the services of their officers in the adjustment of the party-walls, partition fences and the like, and to enforce the payment of the same.

Section 2, Clause 23, Act of April 3, 1851, P. L. 320.

XX. To regulate, license or prohibit theatrical exhibitions, concerts, circuses, shows, mountebanks and jugglers, and all other exhibitions, within the limits of the borough, and for the purpose of carrying the same into effect, to pass such ordinances or by-laws as may be necessary for that purpose, and also to impose fines, to be collected by an action of debt, or penalties, to be enforced by summary conviction, as for a breach of the peace, before any alderman, magistrate or justice of the peace of said boroughs.

Section 1 and 2, Act of May 5, 1876, P. L. 112.

XXI. To make all needful regulations respecting markets and market days, the hawking and peddlings of market produce and other articles in the borough.

Part of Section 2, Clause 11, Act of April 3, 1851, P. L. 320.

XXII. To regulate annually the scales, weights and measures within the borough, according to the standard of the Commonwealth, and to make all needful regulations for the inspection and measurement or weight of cordwood, hay, coal and other articles sold or offered for sale in the borough.

Part of Section 2, Clause 11, Act of April 3, 1851, P. L. 320.

XXIII. To levy and collect annually a tax on the owners of dogs and bitches, not exceeding one dollar on the owner of but one dog, or two dollars on the owner of but one bitch, and to levy and collect such additional tax on the owners of more than one dog or bitch, and in such ratio of increase, as they may deem proper.

Section 2, Clause 25, Act of April 3, 1851, P. L. 320.

XXIV. To authorize and direct the killing of dogs running at large contrary to the regulations of the borough.

Section 2, Clause 10, Act of April 3, 1851, P. L. 320.

XXV. To prohibit and otherwise regulate the running at large of horses, cattle, sheep, swine, geese, dogs, and other animals, and to authorize their seizure and sale for the benefit of the borough.

Section 2, Clause 9, Act of April 3, 1851, P. L. 320.

XXVI. To impose fines and penalties, incurring partial or total forfeitures, to remit the same, to provide or erect a lock-up house for the temporary detention of persons committed by the proper corporate officers, or by justices of the peace within the borough.

Section 2, Clause 21, Act of April 3, 1851, P. L. 320.

XXVII. To display the flag of Pennsylvania, or the flag of any county, city, borough, or other municipality in the State, on the public buildings of the borough.

Drafted from Sections 1 and 2, Act of June 5, 1913, P. L. 419.

XXVIII. To enter into contracts with any street passenger railway company, surface, elevated or underground, or motor power company leasing and operating the franchise and property of such company within the limits of such borough; affecting, fixing, and regulating the franchises, powers, duties, and liabilities of such companies, and the regulations and respective rights of the contracting parties. Such contracts may, inter alia, provide for payments by the companies to the borough, in lieu of the performance of certain duties or the payment of license fees or charges imposed in favor of such borough by the charters of the respective companies or by any general law or ordinance, for the appointment by the borough of a certain number of persons to act as directors of such company, in conjunction with the directors elected by the stockholders of such company, and, further, may provide for the ultimate acquisition by the borough upon terms mutually satisfactory, of the leaseholds, property and franchises of the contracting companies.

Section 1, Act of April 15, 1907, P. L. 80.

XXIX. To take by right of eminent domain for the purpose of appropriating to themselves, for the use of the National Guard of Pennsylvania, such public lands, easements and public property as may be in their possession or control and used or held by them for any other purpose. Such right, however, shall not be exercised as to any street or highway or wharf, but all other public easements and property may be appropriated and used for the purposes herein pro-

vided, any limitation of the use thereof by the borough either by donation, dedication, appropriation, statute or otherwise, to the contrary notwithstanding.

Section 1, Act of June 26, 1895, P. L. 332, No. 247.

XXX. To provide and appropriate moneys, or convey land, either independently or in conjunction with any county, city, town, borough or other municipal division of this Commonwealth to the Commonwealth of Pennsylvania, to assist the Armory Board of the State of Pennsylvania in the erection, wherever deemed most advantageous by the said Armory Board of the State of Pennsylvania, of armories for the use of the National Guard of Pennsylvania; and to furnish water, light, or fuel, either or all, free of cost to the Commonwealth of Pennsylvania, for use in any armory of the National Guard; and to do all things necessary to accomplish the purposes of this clause.

Section 1, Act of March 15, 1909, P. L. 33, No. 15.

XXXI. To appropriate moneys for the expenses of Memorial Day services, and to pay the same out of such moneys in their respective treasuries, as are not otherwise appropriated, in the manner appropriations are made and paid.

Section 1, Act of June 25, 1895, P. L. 298, No. 216.

XXXII. To appropriate annually to each camp of the United Spanish War Veterans, and of the Army of the Philippines, and to each post of the American Veterans of Foreign Service, in the boroughs, a sum not to exceed fifty dollars ($50.00), to aid in defraying the expenses of Memorial Day.

Section 1, Act of June 25, 1913, P. L. 550, No. 352.

XXXIII. To make and are hereby required to appropriate annually, to each post in the borough, a sum, not to exceed fifty dollars, to aid in defraying expenses of Memorial Day.

Section 1, Act of June 9, 1911, P. L. 863, amending Section 1, Act of March 21, 1907, P. L. 22.

CHAPTER VI.

SPECIAL POWERS.

ARTICLE I.

EMINENT DOMAIN.

Section 1. Boroughs shall have power to enter upon the lands and premises of any person or persons, for the purposes authorized by this act, by themselves and their duly appointed officers and agents.

Section 2, Clause 8, Act of April 3, 1851, P. L. 320.

Section 2. Private property shall not be taken for the use or purpose of the borough, without the consent of the owners, or until just compensation shall be made therefor, according to the provisions of this act.

Section 27, Clause 1, Act of April 3, 1851, P. L. 320.

Section 3. No borough shall exercise the right of eminent domain as against the land now occupied by any building which was used during the Colonial or Revoluntionary period as a place of assembly by the Council of the Colony of Pennsylvania, or by the Supreme Executive Council of the Commonwealth of Pennsylvania, or by the Congress of the United States; or as against the land now occupied by any fort, redoubt, or blockhouse erected during said Colonial or Revoluntionary period; or as against any building used as headquarters by the Commander-in-chief of the Continental Army; or as against the site of any such building, fort, redoubt, blockhouse or headquarters, which said building, fort, redoubt, blockhouse or headquarters, or site thereof, is now or shall hereafter be preserved for its historic memories and associations, and not for private profit: Provided, That the said Colonial and Revolutionary period, as applied to the buildings, forts, redoubts, blockhouses or headquarters, or the sites thereof, as aforesaid, shall be taken as ended on the third day of September, Anno Domini, one thousand seven hundred and eighty-three.

Section 1, Act of May 10, 1907, P. L. 196.

Section 4. Whenever in any condemnation proceeding any borough has tendered a bond in sufficient sum to secure the owner or lessee for damages, and the same has been accepted, or, if the acceptance of said bond has been refused, and the same has been filed in and approved by the court, such borough shall have the right to immediate possession thereof. If the owner, lessee, or occupier shall

refuse to remove his personal property therefrom, or give up possession thereof, the borough may serve written notice upon such owner, lessee, or his agent, or the occupier, to remove his personal property therefrom, and give up possession of said lands, buildings or other property, within sixty days from the date of the service of said notice.

Section 1, Act of June 7, 1907, P. L. 461.

Section 5. If the owner, lessee, or occupier of said lands, buildings or other property shall refuse or neglect to remove his personal property therefrom and give possession thereof, upon proof of the service of the notice, specified in Section four of this article, in the office of the prothonotary for the county in which said lands, buildings or other property is located, a writ of habere facias possessionem shall forthwith issue, directing the sheriff to give to the party entitled thereto full and peaceable possession.

Section 2, Act of June 7, 1907, P. L. 461.

Section 6. Whenever any court of quarter sessions in this Commonwealth shall order any borough to enter security for the payment of damages for the taking of land for any street, road or highway, the bond of the said borough shall be taken without sureties.

Section 1, Act of May 23, 1891, P. L. 109, No. 89.

Section 7. In all cases of the appropriation of land for public use, other than for roads, streets or highways, it shall not be lawful to assess, apportion or charge the whole or any portion of the damage done to or value of the land so appropriated, to, among or against the other property adjoining or in the vicinity of the land so appropriated, nor the owners thereof.

Section 1, Act of June 15, 1871, P. L. 391.
See Mill Creek Sewer, 196 Pa. 183.

Section 8. Viewers, or juries of view, appointed by any court of this Commonwealth to assess the damages and benefits, due to the taking, injury or destruction of private property, in and by the construction or enlargement of any public work, highway or improvement, shall make their reports within a time which said court shall fix when so appointing them: Provided, That if any of the viewers, or juries of view, so appointed, shall for any good and sufficient reason appearing to the court, be unable to file its report within the period so fixed, the said court may, in its discretion, either before or after the expiration of the time fixed, extend the time for the filing of such report to such a time as justice and the circumstances of the case may demand.

Act of March 18, 1903, P. L. 28.

Section 9. In any and every action brought to ascertain or recover damages caused to any owner of lands by reason of the appropriation of a right of way or easement in the lands of such owner, by any borough where such owner of lands and such borough cannot agree upon the amount of damage done or properly payable to said owner for the appropriation of a right of way or easement in said lands, the parties may, by agreement with each other, waive the right to have such damages assessed as is now required by law, and such owner may thereupon file his statement and claim in the court of common pleas of the proper county and rule the defendant to plead thereto within fifteen days from notice of such rule, duly served upon said corporation, and the said suit shall be proceeded with the same as if an award of viewers had been filed and an appeal had been taken therefrom.

Section 1, Act of May 1, 1895, P. L. 89.

Section 10. Either party to such action as is referred to in the preceding section shall have the right during the trial of such action, on motion to the judge presiding at such trial, to demand and have the jury which may be selected to try said cause, visit and view the premises over or through which the right of way or easement mentioned in the preceding section may extend, before rendering a verdict in such case.

Section 2, Act of May 1, 1895, P. L. 89.

Section 11. In all cases of damages assessed against any borough for property taken, injured or destroyed by the construction or enlargement of their works, highways, or improvements, whether such assessment shall have been made by viewers or otherwise than upon a trial in court, and an appeal is not provided for, an appeal may be taken by either party to the court of common pleas of the proper county, within thirty days from the filing of a report thereof in court, and not afterwards.

Section 1, Act of June 13, 1874, P. L. 283.
Philadelphia Appeal, 163 Pa. 70.
Bowers v. Braddock Boro, 172 Pa. 596.

Section 12. Any appeal taken pursuant to the preceding section shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied by an affidavit of the party appellant, or of his or their agent or attorney, that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done.

Section 2, Act of June 13, 1874, P. L. 283.
See Vernon Park, Phila. Appeal, 163 Pa. 70.

Section 13. When no appeal is taken in accordance with the provisions of Sections eleven and twelve of this article, and judgment is entered in accordance with law, and the party to whom has been awarded damages declines and refuses to accept payment of said award or judgment, then it shall be lawful for such borough, against whom such damages have been assessed, upon proper petition to the court of common pleas of the proper county in which said award or judgment is entered, after notice by rule or publication ordered by said court, to pay the amount of said award and cost into said court, and the court upon such payment, to order and direct the satisfaction of said award or judgment by the proper officer.

Section 1, Act of June 2, 1891, P. L. 172.

(COMP.)

CHAPTER VI.

ARTICLE II.

CONDEMNATION PROCEEDINGS IN COURTS OF COMMON PLEAS.

Section 1. All boroughs shall have power, whenever it shall be deemed necessary in the laying out, opening, widening, extending, grading or changing grade or lines of streets, lanes or alleys, the construction of bridges and the piers and abutments therefor, the construction of slopes, embankments and sewers, or the changing of water courses, or vacation of streets or alleys, to take, use, occupy or injure private lands, property or material.

Section 1, Act of June 12, 1893, P. L. 459, amending Section 1, Act of May 16, 1891, P. L. 75.

Hand v. Fellows, 148 Pa. 456.

Section 2. In case the compensation for the damages or the benefits accruing therefrom have not been agreed upon, any court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition by said borough or any person interested, shall appoint three viewers from the board of viewers of the county, and appoint a time not less than twenty nor more than thirty days thereafter when said viewers shall meet upon the line

of the improvement and view the same and the premises affected thereby. The said viewers shall give at least ten days' notice of the time of their first meeting by publication in one or more newspapers of the county in which said borough is situate, and where the publication is in more than one newspaper, one of said newspapers may be in the German language, and by handbills posted upon the premises, or otherwise, as the said court shall direct, having regard to the circumstances of the case.

Section 1, Act of June 12, 1893, P. L. 459, amending Section 1, Act of May 16, 1891, P. L. 75.

Hand v. Fellows, 148 Pa. 456.

Section 3. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide, and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance of the provisions of the preceding sections of this article, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the damages for property taken, injured or destroyed, to whom the same is payable; and, having so estimated and determined the damages, together with the benefits as hereinafter mentioned, they shall prepare a schedule thereof, and give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule and hear all exceptions thereto and evidence.

Section 1, Act of April 2, 1903, P. L. 124, amending Section 2, Act of May 16, 1891, P. L. 75.

Section 4. In proceedings to assess damages and benefits arising from improvements had under this article, if property is both benefited and damaged by such improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the several owners of property affected thereby. This section shall not prevent said viewers, if they so desire, from making a separate report of the damages and benefits, respectively; but, in the event of their making such separate report, if the damages to the property of any person be greater than the benefits received, or if the benefits be greater than the damages, or if the damages and benefits be equal, in either case they shall strike a balance and carry the difference forward to another column, so that the assessment shall show what amount, if any, is to be received or paid by the property owner, and the difference only, shall, in any case be col-

lectible of such property owner or paid to such property owner. Appeals hereafter taken from the report of the Board of Viewers shall be from such net amount only.

Act of May 15, 1913, P. L. 215.

Section 5. Notice of the time and place of said meeting shall be given, in the manner provided by law for the service of a summons in a personal action, upon all parties allowed damages or assessed benefits, as shown by said schedule, if the said parties can be found in the borough, or upon an adult person residing upon the property affected by the assessment in case the owner or reputed owner cannot be found, and to all others by publication in the newspaper or newspapers in which the first notices of said view were published. When no service is made upon the owner, reputed owner, or upon an adult person residing upon the property affected, said notice, where publication thereof has also been made, shall be deemed to have been properly served if tacked or conspicuously posted on the premises. Councils, by ordinance, may provide by whom the notice provided by this act shall be posted, given, and served, and fix the compensation for said service.

Section 1, Act of April 2, 1903, P. L. 124, amending Section 2, Act of May 16, 1891, P. L. 75.

Section 6. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages and benefits allowed and assessed in each case, and file therewith a plan, showing the improvement, the properties taken, injured or destroyed, and the properties benefited thereby. When said report is filed, notice thereof shall be given by publication once in the newspaper or newspaper publishing the notice provided for in Section two of this article. Said notice shall state the date of filing of the report, and shall contain a schedule of the damages and benefits as shown therein; and shall further state that unless exceptions thereto be filed within thirty days from the date of filing, the said report will be confirmed absolutely.

Section 1, Act of April 2, 1903, P. L. 124, amending Section 2, Act of May 16, 1891, P. L. 75.

Section 7. The payment of damages sustained by the making of the improvements aforesaid, may be made, either in whole or in part, by the borough, or in whole or in part by assessments upon the property benefited by such improvements, as said viewers may determine and the court approve, and in the latter case the viewers appointed to assess damages, having first estimated and determined the same apart from benefits, shall also assess the total cost of the improvement or so much thereof as they may deem just and reasonable,

upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for which damages have been allowed, if, in their judgment, such properties will be benefited thereby, and shall report the same to the said court. The total assessments for benefits shall not exceed the total damages awarded or agreed upon.

Section 3, Act of May 16, 1891, P. L. 75.
Howell v. Morrisville Borough, 212 Pa. 349.
In Re Petition of the city of New Castle, 16 Pa. C. C. 478.

Section 8. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry, taking appropriation or injury of any property or materials for constructing said improvements. The cost of the viewers, and all court costs incurred in the proceedings aforesaid, shall be defrayed by the said borough, and each of the said viewers shall be entitled to a sum not exceeding five dollars per day for every day necessarily employed in performance of the duties herein prescribed.

Section 4, Act of May 16, 1891, P. L. 75.

Section 9. In all cases where the parties have not agreed upon the amount of damages claimed, or where, by reason of the absence or legal incapacity of the owner or owners, no such agreement can be made for the lands, property or materials to be taken, occupied or injured, the borough may tender sufficient security to the party claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the agent or other officers of a corporation, or to the guardian or committee of any one under legal incapacity, the condition of which shall be that the said borough shall pay or cause to be paid, such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties, or assessed in the manner provided for by this act. In case the party or parties claiming damages refuse or do not accept the security so tendered, the said borough shall then give the party, his or their agent, attorney, guardian or committee, a written notice of the time when the same will be presented for filing in the court, and thereafter the said borough may present said security to the court of common pleas of the county where the lands or other property are situated, and, if approved, the security shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, and if the same be not paid, it may be collected, by execution on the judgment in the issue formed to try the question; and upon the approval of said security said borough may proceed with the improvement.

Section 5, Act of May 16, 1891, P. L. 75.

Section 10. Upon the report of said viewers, or any two of them, being filed in said court, any party interested may within thirty days thereafter file exceptions to the same; and the court shall have power to confirm said report, or to modify, change, or otherwise correct the same, or change the assessments made therein, or refer the same back to the same or new viewers, with like power as to their report. When said report is first filed in court, the prothonotary thereof shall mark the same confirmed nisi, and in case no exceptions are filed thereto within said thirty days, he shall enter a decree (as of course) that said report is confirmed absolutely. Within six months after the confirmation, modification, changing or correcting of any report, any interested party may appeal from the said decree to the superior court or to the supreme court, as the case may be. The said report, when and as finally confirmed, shall be conclusive as to any assessments made therein to pay the costs and expenses of any sewer, street or other improvement.

Section 2, Act of April 2, 1903, P. L. 124, amending Section 2, Act of May 16, 1891, P. L. 75.

Scranton Sewer, 213 Pa. 4.

Section 11. Where any exceptions are filed to any report of viewers, and the said exceptions affect the entire report, the same shall not be confirmed absolutely as to any part thereof until the said exceptions have been finally disposed of by the court; but when exceptions are filed that only go to or affect some particular assessment of benefits or damages, and which in the consideration and final disposal thereof will not affect the assessments made against or in favor of other parties, in such case it shall be lawful for the court, at any time after the report has been filed thirty days, by decree, order or rule to confirm all such assessments as to which no exceptions have been filed.

Section 1, Act of April 18, 1905, P. L. 198, supplementing May 16, 1891, P. L. 75.

Section 12. Where any appeal is taken to the action of any court confirming any viewers' reports or any part thereof, to which exceptions have been filed and overruled, such appeal, if taken for any manner or thing which will or may affect the entire report, shall have the effect of suspending the absolute confirmation of the entire report until the appeal is finally disposed of by the appellate court; but where the appeal is to matters and things which do not go to or affect the entire report or affect other assessments, any such appeal shall only affect the particular assessment or cause as to and for which the appeal is taken.

Section 2, Act of April 18, 1905, P. L. 198.

Section 13. In order to determine whether any appeal affects the entire report or any particular assessment, it shall be the duty of the appellant to file in the court below, before or at the time he files his writ of certiorari, a copy of his specifications or assignments of error, or grounds of appeal, and, upon the request of the proper borough or any interested party, the court below, or a judge thereof in vacation, shall certify whether the said appeal, so taken, does not affect the entire report, and the said certificate shall be conclusive on said question. Where the court or judge certifies that the appeal taken will affect the entire report, no further proceedings shall be taken in the court below until after the final action of the appellate court; but where the said court or judge certifies that the appeal taken will only affect the particular assessment of benefits or damages, as the case may be, then the confirmation of all other assessments, as to which no appeal has been taken, shall be deemed and taken to be final and absolute.

Section 2, Act of April 18, 1905, P. L. 198.

Section 14. If on any appeal the action of the court below, confirming any report or any assessment, is affirmed, the date of the decree or judgment of the appellate court shall be deemed and taken as the day on which said report or assessment was finally confirmed.

Section 2, Act of April 18, 1905, P. L. 198.

Section 15. Where any appeal is taken to the Supreme Court from the action of any court confirming the report of viewers, or any part thereof, and an appeal is also taken to the Superior Court from the same report or any part thereof, and the appeals in both cases are substantially the same, and in which the same questions are involved, it shall be lawful for the Superior Court to certify the said appeal to the Supreme Court, to be heard with the other appeals from the same report, involving the same questions. And it shall be lawful for the Supreme Court to consolidate the said appeals, and to hear the same as one case. And where several appeals are taken from the confirmation of the same report, either to the Superior or the Supreme Court, the appellate court may consolidate the appeals, where the grounds of appeal are similar and the same questions involved.

Section 3, Act of April 18, 1905, P. L. 198.

Section 16. It shall be lawful for the several parties or persons to unite and join in a single appeal from the confirmation of the report of viewers, or any parts thereof, either to the Superior or Supreme Court, where the grounds of appeal are similar and the same questions are involved; but the uniting of the appellants shall not

unite the amounts, or change the jurisdiction. When the appeal, if taken by each appellant singly, would be to the Superior Court, then the joint appeal shall be to the said court; but if the appeal of any one joint appellant, if taken singly, would be to the Supreme Court then the joint appeal shall be to the said court. If any appeal has been taken to the Supreme Court, any other party, without regard to the amount involved, may appeal to the same court, and join in the said appeal, in case the grounds of appeal are similar and the same questions are involved.

Section 4, Act of April 18, 1905, P. L. 198.

Section 17. The borough or any party interested may, by notice or rule upon the appellant, in any case, cause a statement or copy of the specifications of error or grounds of appeal to be filed in the court below; upon which the said court, or judge thereof in vacation, shall certify whether the appeal taken does or does not affect the entire report, in the manner and with the effect as set forth in section thirteen of this article.

Section 5, Act of April 18, 1905, P. L. 198.

Section 18. Within thirty days after said report is filed in court, as aforestated, any party whose property is taken, injured or destroyed, or who is assessed benefits to pay damages for property taken, injured or destroyed, may appeal to the court of common pleas, and demand a trial by jury, according to the course of the common law. Every appellant shall state in the appeal the grounds upon or for which the appeal is taken, and the same shall be signed by the party or parties taking the appeal, or by his or their agent or attorney; and shall be accompanied by an affidavit of the party appellant or of his or their agent or attorney, that the appeal is not taken for the purpose of delay, but because the appellant firmly believes that injustice has been done. Upon the trial of any such appeal in court, the report of the viewers, as finally approved, confirmed, modified or changed by the court, shall be prima facie evidence of the benefits as therein mentioned; and in case the party appellant does not obtain a verdict more favorable than was the report of viewers, as finally confirmed, modified or changed, the said appellant shall not recover any costs on the appeal. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings, and make all and such orders as it may deem requisite, and may by rule or otherwise, prescribe the form of the pleadings. After verdict and final judgment, either party may have an appeal to the Superior Court or Supreme Court, as in other cases.

Section 2, Act of April 2, 1903, P. L. 124, amending Section 6, Act of May 16, 1891, P. L. 75.

Section 19. Should any appeal under this article be made to the wrong appellate court, it shall be the duty of the said court to certify the appeal to the court to which the appeal should originally have been taken.

Part of Section 5, Act of April 18, 1905, P. L. 198.

Section 20. No appeal taken under this act shall prevent the filing of liens by any borough for any assessment made by said report; but, upon the final termination of the issue, the court shall make such order as to the lien filed as shall appear right and proper.

Section 2, Act of April 2, 1903, P. L. 124, amending Section 6, Act of May 16, 1891, P. L. 75.

Section 21. In case any such borough shall repeal any ordinance passed, or discontinue any proceeding taken, providing for any of the improvements mentioned in the preceding sections of this article prior to the entry upon, taking, appropriation or injury to any property or materials, and within thirty days after the filing of the report of viewers assessing damages and benefits, the said borough shall not thereafter be liable to pay any damages which have been, or might have been assessed, but all costs upon any proceeding had thereon shall be paid by said borough, together with any actual damage, loss or injury sustained by reason of such proceedings.

Section 7, Act of May 16, 1891, P. L. 75.

Section 22. All assessments for benefits to pay damages, costs and expenses shall bear interest at the expiration of thirty days after they shall have been finally ascertained and fixed, and shall be payable to the treasurer or other proper officer of the borough.

Part of Section 10, Act of May 16, 1891, P. L. 75.

CHAPTER VI.

ARTICLE III.

DAMAGES FOR INJURY TO PROPERTY.

Section 1. The right to damages against boroughs, is hereby given to all owners or tenants of lands, property, or material abutting on, or through which pass, roads, streets, lanes, or alleys, injured by the laying out, opening, widening, vacating, extending or grading of said roads, streets, lanes or alleys or the changing of grades or lines thereof, by said boroughs; the construction and

the vacating by said boroughs of bridges, and the piers, abutments, approaches, embankments, slopes, or cause-ways therefor, or leading thereto; and the construction of sewers by said boroughs, over, upon, along, or through said lands, property, or material.

Section 1, Act of May 28, 1913, P. L. 368.

Section 2. That all juries of view appointed, or which shall hereafter be appointed, under this act for assessing damages or benefits for taking, using, occupying or injuring lands, property, or material, are hereby directed, and it shall be their duty, to assess the damages provided for in section one of this article, if any, against said boroughs, and the benefits, if any, in connection therewith, and make report thereof.

Section 2, Act of May 28, 1913, P. L. 368.

Section 3. That the right of appeal to the proper court of common pleas from said report, and the right of trial by jury in said court of common pleas and the right to file exceptions to said report, are hereby given to any party or parties not satisfied with said report, in accordance with proceedings under this act.

Section 3, Act of May 28, 1913, P. L. 368.

Section 4. That after disposal of exceptions, or verdict and final judgment, any interested party or parties may have an appeal to the Superior Court or Supreme Court, as in any other cases.

Section 4, Act of May 28, 1913, P. L. 368.

CHAPTER VI.

ARTICLE IV.

OPENING, WIDENING, EXTENDING, STRAIGHTENING AND VACATING STREETS.

(a) WITHOUT PETITION.

Section 1. Every borough shall have power to survey, lay out, enact and ordain such roads, streets, lanes, alleys, and courts, as they may deem necessary, and to provide for, enact and ordain the widening and straightening of the same.

Section 2, Clause 2, Act of April 3, 1851, P. L. 320.
Frederick Street, 150 Pa. 202.

Section 2. Every borough shall have power, whenever the councils shall deem it necessary, to open, widen, straighten or extend streets or alleys, or parts thereof, and to vacate streets or alleys, or parts thereof, without any petition of property owners:

Section 1, Act of March 19, 1903, P. L. 35, amending Act of May 2, 1895, P. L. 106, which amended Act of May 16, 1891, P. L. 75.

Section 3. Any street, lane or alley, laid out by any person or persons in any village or town plot or plan of lots, on lands owned by such person or persons, in case the same has not been opened to, or used by, the public for twenty-one years next after the laying out of the same, shall be and have no force and effect and shall not be opened, without the consent of the owner or owners of the land on which the same has been, or shall be, laid out.

Section 1, Act of May 9, 1889, P. L. 173, No. 192.

Section 4. The borough authorities shall give at least ten days' notice, by not less than ten handbills posted on the line of the proposed improvement of the laying out, widening, straightening, extending or vacating of any streets, roads, lanes, or alleys, and in such notice to designate a time and place where objections thereto shall be heard.

Section 1, Act of July 12, 1897, P. L. 246, amending Section 3, Clause 8, Act of April 3, 1851, P. L. 320.

Section 5. The ordinance or ordinances authorizing the exercise of any powers conferred by sections one and two of this article, shall be adopted and enacted by the affirmative vote of three-fourths of the members elect, composing the councils of such borough, and approved by the burgess thereof. No such ordinance shall be finally adopted and enacted in a less period than thirty (30) days from the date of its introduction, and in the meantime copies of said ordinance shall be published in each of the official newspapers of such borough, once a week, for three consecutive weeks, immediately following the introduction thereof, and in case such borough shall have no official newspapers, then in at least one newspaper published in the county in which the borough is situate, once a week for three consecutive weeks.

Section 1, Act of March 19, 1903, P. L. 35, amending Act of May 2, 1895, P. L. 106, which amended the Act of May 16, 1891, P. L. 75.

Section 6. Complaint may be made to the next court of quarter sessions of the proper county, upon entering into recognizance, with sufficient security according to law, to prosecute the same with effect, and for the payment of costs, by any person aggrieved in con-

sequence of any ordinance, regulation or act done, or purporting to be done, in virtue of sections one, two and four, of this article, and the determination and order of said court thereon shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending Section 27, Clause 2, Act of April 3, 1851, P. L. 320.

Section 7. Upon complaint of any person or persons aggrieved by any regulation under the provisions of sections one, two and three, of this article in relation to laying out, widening, and straightening the roads, streets, lanes, alleys, and courts, the said court shall take such order as may be just and reasonable, and the final order of said court shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending Section 27, Clause 3, Act of April 3, 1851, P. L. 320.

Section 8. Such streets, lanes, and alleys, shall not be open for public use, until the damages shall be liquidated and upon any amounts due or to become due by borough corporations, for the purposes aforesaid, interest shall be allowed and paid from the date of the adjudication of said damages.

Section 1, Act of May 22, 1883, P. L. 39, amending Clause 3, Section 27, Act of April 3, 1851, P. L. 320.

Section 9. Every borough shall have power to prohibit the erection or construction of any building or work, excavation or other obstruction, to the opening, widening, straightening and convenient use thereof.

Section 2, Clause 3, Act of April 3, 1851, P. L. 320.

Section 10. It shall not be lawful for any owner or owners, occupier or occupiers of lands, buildings or other improvements, to erect any buildings or make any improvements within the lines of the roads, streets, lanes, alleys, courts or common sewers, laid out, widened or straightened, or ordained to be laid out, widened or straightened, after due notice thereof, and if any such erection or improvement shall be made, no allowance shall be made therefor in the assessment of damages, but the loss or injury sustained by the laying out of the same, or the enactment of such widening or straightening thereof, shall be determined by agreement of the parties, or by appeal to the court as herein directed.

Clause 5, Section 27, Act of April 3, 1851, P. L. 320.

Section 11. Whenever the burgesses and town council of any borough shall open or be about to open any streets or alleys therein, or to widen or extend the same, it shall be lawful for said burgesses

and council, or a majority of them, to apply by petition to the court of quarter sessions of the peace of the proper county, setting forth the facts, and describing the locality of such streets or alleys, and praying said court to appoint three disinterested freeholders of such borough, who, after being first duly sworn or affirmed to perform their duties under this act with impartiality and fidelity, shall proceed to view the premises described in said petition, having regard to both the advantages and disadvantages caused to the several properties along the line of and adjoining said streets and alleys, and shall assess and allow to all persons injured thereby such damages as they shall have sustained, respectively, over and above all advantages, and shall also make assessments for contribution upon all such properties as shall be benefited by the opening, widening, or extension of said streets and alleys, such sums respectively as they may have been benefited, over and above all disadvantages.

Section 1, Act of June 20, 1911, P. L. 1085, amending Section 1, Act of April 22, 1856, P. L. 525.

Section 12. The said viewers shall make report of their proceedings in writing to the next session of said court, describing the properties upon which assessments have been made, specifically stating whether for contribution or for damages, with the amounts respectively, and the said court may, at the next session thereafter, or at any subsequent session, on the hearing of such parties as choose to contest the same, modify, approve and confirm the said report, which confirmation shall be final and conclusive upon all parties; and the said burgesses and council may proceed to collect all such damages and assessments for contribution, in the same manner as other debts due such boroughs are by law collectible.

Section 2, Act of April 22, 1856, P. L. 525.

Section 13. Whenever any report of viewers, or juries of view, appointed by the court of quarter sessions of this Commonwealth to assess damages and benefits for the opening, widening, narrowing or vacating of any road, street or highway, or the taking of private property in and by the construction or enlargement of any highway, shall have been filed, the same shall be confirmed by the court of quarter sessions to which the said report is made, at the expiration of thirty days from the date of the filing thereof, unless exceptions thereto have been filed within such time.

Section 1, Act of March 27, 1903, P. L. 83.

Section 14. If no exceptions are filed within the time above prescribed, the report of the viewers, or jury of view, shall be confirmed by the court; and the party or parties to whom an award has been

made, and from whose award no appeal has been taken, shall have the right to take such further appropriate legal proceedings as may be necessary and proper to enforce payment of said confirmed award, either in nature of a writ of mandamus, execution, or otherwise.

Section 2, Act of March 27, 1903, P. L. 83.

Section 15. In all cases where a jury of view, review or re-review, appointed by any court of quarter sessions in this Commonwealth, has or shall hereafter assess damages for the laying out, widening, or opening of any public street, road or alley in this Commonwealth, the borough required to pay the damages, or any owner or tenant of property through which said public street, road or alley, has been or shall be laid out, widened, or opened, shall have the right to appeal to the court of common pleas of the proper county, from the decree of the court of quarter sessions confirming the award of such jury, for the determination of the question of damages by a jury, according to the course of the common law: Provided, The appeal be taken within thirty days after the final confirmation of the report of said jury.

Section 1, Act of April 15, 1891, P. L. 17.

Section 16. Any appeal taken pursuant to the preceding section of this article, shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied by an affidavit of the party appellant, or his or their agent or attorney, that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done.

Section 2, Act of April 15, 1891, P. L. 17.

Section 17. Whenever any report of viewers, appointed by any court of quarter sessions to assess damages for the opening or widening of any street, road or highway, shall be confirmed by the court of quarter sessions to which the said report is made, an appeal may be taken from the said court of quarter sessions by any party aggrieved by the said decree of confirmation, to the court of common pleas in said county for a trial of the question of damages by jury, according to the course of common law, within thirty days from the entry of said decree of confirmation by the court of quarter sessions, and not afterwards.

Section 1, Act of May 26, 1891, P. L. 116, No. 102.
Philadelphia's Appeal, 163 Pa. 70.

Section 18. Any appeal taken in pursuance of the preceding section of this article, shall be signed by the party or parties taking the same, or by his or their agent or attorney, and shall be accompanied

by an affidavit of the party appellant, or of its, his or their agent or attorney, that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done.

Section 2, Act of May 26, 1891, P. L. 116, No. 102.
Philadelphia's Appeal, 163 Pa. 70.

Section 19. In addition to the mode of assessing damages and benefits as provided in the foregoing sections of this article, viewers may be appointed on the petition, of the borough, or any person interested, to the court of common pleas provided in Chapter six, Article two, Section two, of this act, who shall assess the costs and expenses of the opening, widening, straightening, or vacating of each street or alley, or part thereof within its corporate limits, upon the property benefited according to benefits, if sufficient can be found, but if not, then the deficiency, when finally ascertained, shall be paid by the borough, and the proceedings of said viewers, and the proceedings on their report, shall be as provided in Chapter six, Article two, of this act for viewers and reports of viewers in the cases of property taken, injured, or destroyed.

Part of Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

See Frederick Street, 150 Pa. 202.

Section 20. The streets, lanes, and alleys, when duly opened according to law, or by agreement of parties, are hereby declared public highways, over which the corporation shall exercise jurisdiction.

Section 27, Clause 4, Act of April 3, 1851, P. L. 320.

(b) ON PETITION TO THE COUNCIL.

Section 21. Every borough shall have power to open, widen, straighten or extend streets or alleys, or parts thereof, within its limits, and to vacate streets or alleys, or parts thereof, upon the petition of a majority in number and interest of owners of property abutting on the line of the proposed improvement, to be verified by the affidavit of one or more parties, a majority in interest of owners of undivided interests in any piece of property, to be deemed and treated as one person for the purposes of petition.

Section 1, Act of March 19, 1903, P. L. 35, amending Section 9, Act of May 16, 1891, P. L. 75.

Section 22. The ordinance or ordinances authorizing the exercise of any power conferred by Sections one and two of this article shall be adopted and enacted by the affirmative vote of three-fourths of the members elect, composing the councils of such boroughs, and approved by the burgess thereof. No such ordinance shall be finally

adopted and enacted in a less period than thirty (30) days from the date of its introduction, and in the meantime copies of said ordinance shall be published in each of the official newspapers of such borough, once a week, for three consecutive weeks, immediately following the introduction thereof, and in case such borough shall have no official newspapers, then in at least one newspaper published in the county in which the borough is situate, once a week for three consecutive weeks.

Section 1, Act of March 19, 1903, P. L. 35, amending Act of May 2, 1895, P. L. 106, which amended Act of May 16, 1891, P. L. 75.

Section 23. The majority in interest and number required for petitions to councils shall be fixed as of the date of the presentation of said petition. After the passage or approval of any ordinance for the opening, widening, straightening, or extending any street or alley, notice shall, within ten days thereafter, be given by hand bills posted in conspicuous places along the line of the proposed improvement, which notice shall state the fact of the passage or approval of the ordinance, the date of the passage or approval, that the petition for the improvement was signed by a majority in interest and number of owners of property abutting the line of the proposed improvement, and that any person interested and denying the fact that said petition was so signed, may appeal to any court of Common Pleas of the proper county within sixty days from the passage or approval of said ordinance, and any person interested may, within sixty days from the passage or approval of said ordinance, present a petition to any court of Common Pleas of the proper county setting forth the facts, whereupon the said court shall inquire and determine whether the said improvement was petitioned for by the requisite majority, and if said court shall find that it was not so petitioned for, shall quash said ordinance, but if said court shall find that it was so petitioned for, it shall approve the ordinance. If no appeal shall be taken as aforesaid, or if the court on appeal shall approve the ordinance, the borough may proceed with the improvement, and thereafter all parties interested shall be estopped from denying the fact that said petition was signed by the requisite majority of property owners as required by the preceding section.

Section 10, Act of May 16, 1891, P. L. 75.

Section 24. On petition, viewers shall be appointed as provided in Chapter six, Article two, Section two, of this act, who shall assess the costs and expenses of the opening, widening, straightening and extending of each street or alley or part thereof within its corporate limits, upon the property benefited according to benefits, if sufficient can be found, but if not, then the deficiency, when finally

ascertained shall be paid by the borough and the proceedings of said viewers, and the proceedings on their report, shall be as provided in Chapter six, Article two, for viewers and reports of viewers in cases of property taken, injured or destroyed.

Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

(c) STREETS NOT TO BE OPENED AFTER TWO YEARS FROM PASSAGE OF ORDINANCE.

Section 25. If any borough within this Commonwealth has heretofore surveyed, laid out, enacted, or ordained, or shall hereafter survey, lay out, enact, or ordain, any road, street, lane, alley, court, over private property located in whole or in part within the limits of said borough, and proceedings to open the same and to assess the damage arising therefrom shall not be proceeded with by the borough within two years from the enactment of said ordinance, it shall be null and void.

Section 1, Act of June 1, 1911, P. L. 541.

CHAPTER VI.

ARTICLE V.

VACATION OF ROADS AND STREETS.

(a) ROADS LAID OUT BY THE COMMONWEALTH.

Section 1. Boroughs shall have the power and authority to vacate, in whole or in part, all streets, lanes and alleys within their corporate limits, laid out by this Commonwealth, whenever the same, or the portion to be vacated, shall have remained unopened for a continuous period of thirty years next preceding such vacation.

Section 1, Act of March 21, 1905, P. L. 46.

Section 2. In exercising the power aforesaid, all proceedings for the ascertaining of damages, and the assessment of benefits incident thereto, shall be as provided in Chapter six, Article two, of this act.

Section 2, Act of March 21, 1905, P. L. 46.

(b) LANES AND ALLEYS DECLARED NUISANCES BY BOARD OF HEALTH.

Section 3. Where the bureau of health or health officers of any borough, shall declare as a public nuisance and menace to health any alley, lane, or passageway located therein, used wholly or partly by the public, that thereupon any two or more owners of property adjacent, contiguous, or abutting upon the same, may present their petition, duly verified by oath or affirmation, to the court of quarter sessions of the county in which the said alley, lane, or passageway is located, setting forth the facts regarding the said nuisance, and, praying that the said alley, lane, passageway, or so much thereof as may be necessary, be vacated; which said petition shall be accompanied by a certificate of the bureau of health or health officers, setting forth that they have declared the said alley, lane, or passageway to be a public nuisance and menace to health.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 4. The said court shall appoint a jury of view of three men, being duly qualified residents of the county where the proceedings are had. The jury, being duly sworn or affirmed to faithfully perform their duties, shall give notice to the abutting, contiguous, and adjacent property owners, or others that are likely to be affected by the proceedings, of the time and place of the first meeting, in such manner as the court may direct; and after the said first meeting the jury shall proceed to view the premises, and inquire into and take testimony, in the manner usually pursued by juries of view in the opening of streets and the like; and then to present and file in the court of their appointment their report, in writing, of their findings and recommendations as to whether or not the said alley, lane, or passageway, or so much thereof as may be necessary, be vacated, and awarding the damages and assessing the benefits, if any, to the properties affected thereby.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 5. After they shall have prepared their report, the jury shall give notice in writing to all the parties to be affected by the said report, at least ten days before the day therein named for its filing, that the same is open to inspection, at a place within the said county named therein; within which period any party or person aggrieved thereby shall have the right to file with the jury exceptions thereto; whereupon it shall be the duty of the said jury to proceed to reconsider their said report with the exceptions; and if the same or any part thereof are in their opinion, in part or in whole, well founded, then it shall become their duty to modify their said report

as justice may require; and thereupon file the same in the court of their appointment. If, however, no exceptions be filed within the period of the notice, then it shall be the duty of the said jury, at the expiration of the said period, to forthwith file its said report in the court of their appointment.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 6. Any party or person affected by the said report shall have, after the same is filed in the court aforesaid, the right to appeal to the court of common pleas of the county where the proceedings are had, within thirty days after the filing of the said report; whereupon the appeal shall, as to the parties thereto, proceed in the same manner as actions of trespass are now conducted.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 7. At the end of the period allowed for appeal, the said report shall be absolutely confirmed by the court aforesaid, as to such awards or assessments of benefits from which no appeals have been taken.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 8. This article shall not apply in any case where the vacation of such alley, lane, or passageway shall wholly deprive any lot or lots of ground abutting thereon of the sole means of ingress or egress to or from such lot or lots, otherwise than to or from the front line or main line thereof, nor shall the provisions of this article apply to any alley, lane, or passageway, created or existing by grant or contract, and not heretofore accepted by the public authority of the borough, in which the same may be located.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

(c) RIGHT TO DAMAGES.

Section 9. Whenever viewers are appointed to vacate any public road, street, or highway in this Commonwealth, and the vacation of said road, street, or highway, damages the property of the abutting thereon, if, in the opinion of the viewers so appointed the vacation of said road, street, or highway, damages the property of the abutting owner, they may award damages to such owner or owners as though land had been actually taken, and such damages shall be paid as is provided in Chapter six, Article two.

Section 1, Act of June 27, 1913, P. L. 633.

CHAPTER VI.

ARTICLE V.

VACATION OF ROADS AND STREETS.

(a) ROADS LAID OUT BY THE COMMONWEALTH.

Section 1. Boroughs shall have the power and authority to vacate, in whole or in part, all streets, lanes and alleys within their corporate limits, laid out by this Commonwealth, whenever the same, or the portion to be vacated, shall have remained unopened for a continuous period of thirty years next preceding such vacation.

Section 1, Act of March 21, 1905, P. L. 46.

Section 2. In exercising the power aforesaid, all proceedings for the ascertaining of damages, and the assessment of benefits incident thereto, shall be as provided in Chapter six, Article two, of this act.

Section 2, Act of March 21, 1905, P. L. 46.

(b) LANES AND ALLEYS DECLARED NUISANCES BY BOARD OF HEALTH.

Section 3. When the bureau of health or health officers of any borough, shall declare as a public nuisance and menace to health any alley, lane, or passageway located therein, used wholly or partly by the public, thereupon any two or more owners of property adjacent, contiguous, or abutting upon the same, may present their petition, duly verified by oath or affirmation, to the court of quarter sessions of the county in which the said alley, lane, or passageway is located, setting forth the facts regarding the said nuisance, and, praying that the said alley, lane, passageway, or so much thereof as may be necessary, be vacated; which said petition shall be accompanied by a certificate of the bureau of health or health officers, setting forth that they have declared the said alley, lane, or passageway to be a public nuisance and menace to health.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 4. The said court shall apoint a jury of view of three men, being duly qualified residents of the county where the proceedings are had. The jury, being duly sworn or affirmed to faithfully perform their duties, shall give notice to the abutting, contiguous, and adjacent property owners, or others that are likely

to be affected by the proceedings, of the time and place of the first meeting, in such manner as the court may direct; and after the said first meeting the jury shall proceed to view the premises, and inquire into and take testimony, in the manner usually pursued by juries of view in the opening of streets and the like; and then to present and file in the court of their appointment their report, in writing, of their findings and recommendations as to whether or not the said alley, lane, or passageway, or so much thereof as may be necessary, be vacated, and awarding the damages and assessing the benefits, if any, to the properties affected thereby.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 5. After they shall have prepared their report, the jury shall give notice in writing to all the parties to be affected by the said report, at least ten days before the day therein named for its filing, that the same is open to inspection, at a place within the said county named therein; within which period any party or person aggrieved thereby shall have the right to file with the jury exceptions thereto; whereupon it shall be the duty of the said jury to proceed to reconsider their said report with the exceptions; and if the same or any part thereof are in their opinion, in part or in whole, well founded, then it shall become their duty to modify their said report as justice may require; and thereupon file the same in the court of their appointment. If, however, no exceptions be filed within the period of the notice, then it shall be the duty of the said jury, at the expiration of the said period, to forthwith file its said report in the court of their appointment.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 6. Any party or person affected by the said report shall have, after the same is filed in the court aforesaid, the right to appeal to the court of common pleas of the county where the proceedings are had, within thirty days after the filing of the said report; whereupon the appeal shall, as to the parties thereto, proceed in the same manner as actions of trespass are now conducted.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 7. At the end of the period allowed for appeal, the said report shall be absolutely confirmed by the court aforesaid, as to such awards or assessments of benefits from which no appeals have been taken.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

Section 8. This article shall not apply in any case where the vacation of such alley, lane, or passageway shall wholly deprive any lot or lots of ground abutting thereon of the sole means of ingress or egress to or from such lot or lots, otherwise than to or from the front line or main line thereof, nor shall the provisions of this article apply to any alley, lane, or passageway, created or existing by grant or contract, and not heretofore accepted by the public authority of the borough, in which the same may be located.

Part of Section 1, Act of June 20, 1911, P. L. 1087, amending Section 1, Act of April 17, 1905, P. L. 193.

(c) RIGHT TO DAMAGES.

Section 9. Whenever viewers are appointed to vacate any public road, street, or highway in this Commonwealth, and the vacation of the same takes no land from the owner or owners of land abutting thereon, if, in the opinion of the viewers so appointed the vacation of said road, street, or highway damages the property of the abutting owner, they may award damages to such owner or owners as though land had been actually taken, and such damages shall be paid as is provided in Chapter six, Article two.

Section 1, Act of June 27, 1913, P. L. 633.

CHAPTER VI.

ARTICLE VI.

OPENING, WIDENING, AND STRAIGHTENING ROADS PARTLY WITHIN THE BOROUGH.

Section 1. In opening, widening, and straightening roads partly within a borough, like proceedings shall be had as are provided by law for the laying out and opening of public roads within this Commonwealth.

Redraft: Section 27, proviso 2 of Clause 3, Act of April 3, 1851, P. L. 320, amended by Section 2, Act of May 22, 1883, P. L. 39.

Section 2. Every jury appointed to view, review, lay out, widen or straighten or vacate any road, or part of a road, in any borough, shall have due reference to the town plot and to the general arrangement, plan, convenience and advantage of the borough, and shall set forth the facts fully in their report.

Section 27, Clause 3, proviso 2, Act of April 3, 1851, P. L. 320, amended by Section 2, Act of May 22, 1883, P. L. 39.

Section 3. All damages assessed beyond the value of the land appropriated to public use shall be paid by the borough, and the jury shall separately assess the same.

Section 27, Clause 5, proviso 1, Act of April 3, 1851, P. L. 320.

In re Parkersburg Boro, 124 Pa. 511.

Section 4. Petitions for the assessment of damages for the opening or widening of any street, road or highway, when the damages are not assessed by the view opening the road, may be filed in the court of quarter sessions within the period of six years from the confirmation of a report, or the entry of a decree opening the said street, road or highway, or within six years from the date of notice of the intended opening of the same, under an ordinance or resolution duly passed, but not thereafter. All claims shall be forever barred after the expiration of the said period of six years.

Section 1, Act of May 23, 1891, P. L. 109, No. 88.

Section 5. It shall be unlawful for any owner or owners, occupier or occupiers, of lands, buildings, or other improvements, to erect any buildings or make any improvements within the lines of the roads, laid out, widened, or straightened, or ordained to be laid out, widened or straightened after due notice thereof, and if any such erection or improvement shall be made, no allowance shall be made therefor in the assessment of damages, but the loss or injury sustained by the laying out of the same, or the enactment of such widening or straightening thereof, shall be determined by the agreement of the parties, or by a jury of view appointed by the court of quarter sessions.

Section 27, Clause 5, Act of April 3, 1851, P. L. 320.

In re Parkersburg Boro, 124 Pa. 511.

Section 6. Whenever the proper authorities of any borough, deem it advisable to construct, change or alter any part of any public road under their supervision, within this Commonwealth, and can agree with the property owners affected by such change as to damages, they—the said borough authorities,—are hereby authorized, upon payment of damages agreed upon, to change or alter such part of such public road as contemplated in such agreement, without the formality of a view: Provided, That this authority shall not extend to any change or alteration of any part of any public road, in this Commonwealth, the costs and expenses of which, including damages, shall exceed three hundred dollars: And Provided further,

That a petition setting forth the facts, accompanied by a map or draft of such proposed change, shall be presented to the court of quarter sessions for approval before such actual change is made; whereupon the new location, thus approved by the court, shall be taken and deemed to be the public road to all intents and purposes, and the old location shall be taken and deemed to be vacated.

Section 1, Act of May 5, 1911, P. L. 123.

CHAPTER VI.

ARTICLE VII.

STREET IMPROVEMENT.

(a) POWER TO GRADE STREETS.

Section 1. Every borough shall have power to lay out, establish, re-establish and regulate the grades of streets, roads, lanes and alleys, or parts thereof.

Drafted from Section 1, Act of June 5, 1913, P. L. 411, amending Section 2, Cl. 4, Act of April 3, 1851, P. L. 320, and Section 1, Act of April 28, 1899, P. L. 100, amending Act of May 16, 1891, P. L. 75.

West Chester Alley, 160 Pa. 89.
Hanover Boroughs Appeal, 150 Pa. 202.
Seaman V. Washington Boro, 172 Pa. 467.
Deer V. Sheraden Boro, 220 Pa. 307.

Section 2. Every borough shall give at least ten days notice, by not less than ten handbills posted on the line of the proposed improvement, of any proposition to fix or change the grade of any streets, roads, lanes or alleys, and in such notice to designate a time and place where objections thereto shall be heard.

Section 1, Act of July 12, 1897, P. L. 246, amending Section 3, Cl. 8, Act of April 3, 1851, P. L. 32.

(b) GRADING STREETS ON PETITION OF MAJORITY OF OWNERS IN INTEREST AND NUMBER AND ASSESSMENT OF COST ACCORDING TO THE FOOT FRONT RULE.

Section 3. The several boroughs of this Commonwealth, in addition to the powers heretofore granted, shall have power to enact ordinances requiring the grading of any street or highway, or part thereof, within the respective boroughs, and to provide for the

payment of the costs and expenses thereof, in whole or in part, by an equal assessment upon the property abounding or abutting thereon according to the foot-front rule.

Section 1, Act of May 19, 1897, P. L. 79.

Section 4. The council in making or ordering said assessment may provide for an equitable reduction, not exceeding one-third from the frontage of all lots, at street or other intersections where from their peculiar or pointed shape, or any other equitable cause, an assessment for the full frontage would be inequitable.

Section 1, Act of May 19, 1897, P. L. 79.

Section 5. The councils shall not require or cause any street or highway or part thereof, to be graded as aforesaid, except upon petition of a majority in number and interest of the owners of property abutting on the line of the said proposed improvement, a majority of owners of undivided interests in any piece of property to be deemed as one person for the purposes of said petition. In case the substance of said petition, with the names of said petitioners, is published once in any daily newspaper published in the proper borough, and in case no such daily is published, then once in any daily or weekly newspaper published in the proper county where the borough is situated (the newspaper in the latter case to be designated by council), such publication shall be conclusive that the majority in number and interest have signed said petition, provided the ordinance aforesaid is not passed finally until five days after said publication.

Section 1, Act of May 19, 1897, P. L. 79.

Section 6. The council of the respective borough, or the person or persons authorized by them to make the assessment, shall give at least five days' notice of the time and place of making the assessment aforesaid by publication, one insertion in any of the newspapers mentioned in the preceding section and according to the order therein mentioned, and by serving notice on an adult person residing on each of the properties to be assessed, at which time and place all parties interested shall be heard by the council or by the person or persons appointed to make said assessment. In case no adult person is found residing on the property said notice shall be deemed properly served if tacked or posted conspicuously on the premises: Provided, however, That in case the notice is served personally upon the real owner or owners, the same shall be deemed sufficiently served under this act and no other service shall be required.

Section 2, Act of May 19, 1897, P. L. 79.

Section 7. When the said costs and expenses are assessed by the councils, or by any person or persons authorized to make the same as aforesaid, and the assessment is confirmed, the same shall be-

come a lien against the property assessed, and shall continue to be a lien until paid, and be collected as municipal liens and claims are collected, and the lien thereof, continued by the general laws of this Commonwealth, provided the specification of lien as required by law is filed with the prothonotary in the court of common pleas of the proper county within six months from the making or confirmation of said assessment.

Section 3, Act of May 19, 1897, P. L. 79.

(c) PAVING, CURBING AND MACADAMIZING UPON PETITION OF TWO-THIRDS OF OWNERS IN INTEREST AND COLLECTION OF TWO-THIRDS OF COST ACCORDING TO FOOT-FRONT RULE.

Section 8. The council of any incorporated borough of this Commonwealth shall have the power to require, by ordinance, and cause to be paved, curbed, or macadamized with brick, stone, or other suitable materials, any public street or thoroughfare, or parts thereof, which is now or may hereafter be laid out and opened in any of said boroughs, and collect, in the manner hereinafter provided, two thirds of the cost and expense of the same from the owners of the real estate bounding or abutting thereon, by an equal assessment on the feet front bounding or abutting as aforesaid, where the real estate on both sides of the street or thoroughfare, is assessable; where the real estate on one side of the street or thoroughfare, or part thereof, desired to be paved, curbed, or macadamized, is exempt from assessment, then one-half of the cost and expense of the same shall be collected from the owners of the real estate bounding or abutting thereon, by an equal assessment on the feet front bounding or abutting as aforesaid; said assessment to be estimated by the street commissioner or person in charge of said work, or other competent authority designated by the council of said borough: Provided, That the council of any such borough shall not require or cause to be paved any street or thoroughfare, or any part thereof, except upon the petition of the owners of property, representing not less than two-thirds in number of feet of the properties fronting or abutting on said street, thoroughfare, or the part thereof, proposed to be paved.

Section 1, Act of June 8, 1911, P. L. 714, and Section 1, Act of June 13, 1911, P. L. 887, amending Section 1, Act of April 23, 1889, P. L. 44.

Beltzhoover Boro v. Beltzhoover, 173 Pa. 213.

Section 9. After the passage or approval of any ordinance for improving any street or part thereof, pursuant to section eight of this article, if the petition for said improvement has been verified by the affidavit of one or more of the petitioners, notice may be

given, within ten days thereafter, by hand-bills posted in conspicuous places along the line of the proposed improvement; which notice shall state the fact of the passage or approval of the ordinance, the date of the passage or approval, that the petition for the improvement was signed by the owners of property, representing not less than two-thirds in number of feet of the property fronting or abutting on said street or thoroughfare, or the part thereof proposed to be paved, and that any person interested, and denying the fact that said petition was so signed, may appeal to any court of common pleas of the proper county, within sixty days from the passage or approval of said ordinance; and any person interested may, within sixty days from the passage or approval of said ordinance, present a petition to any court of common pleas of the proper county, setting forth the facts; whereupon the said court shall inquire and determine whether said improvement was petitioned for by the requisite two-thirds majority; and, if said court shall find that it was not so petitioned for, shall quash said ordinance; but if said court shall find that it was so petitioned for, it shall approve the ordinance. If no appeal shall be taken, as aforesaid, or if the court on appeal shall approve the ordinance, the borough authorities may proceed with the improvement; and thereafter all parties interested shall be estopped from denying the fact that said petition was signed by the requisite two-thirds majority of property owners, as required.

Section 1, Act of April 14, 1905, P. L. 168, supplementing Act of April 23, 1889, P. L. 44.

Section 10. All municipal assessments for paving, curbing or macadamizing as aforesaid, shall be filed with the clerk or secretary of the borough, who shall, thereupon, cause thirty days' written or printed notice to be given to each party assessed, either by service on the owner or agent, or left on the assessed premises, that the assessments are due and payable.

Section 2, Act of April 23, 1889, P. L. 44.

Section 11. If said assessments, or any of them, shall remain unpaid at the expiration of said notice, the same shall be placed in the hands of the borough solicitor for collection, whose duty it shall be to collect the same, together with five per centum additional as attorney's commission, and interest from the completion of the paving, curbing or macadamizing by a municipal claim filed against the delinquent owner describing the premises upon which the writs of scire facias may issue. When an owner has two or more lots against which there is an assessment for the same improvement, all of said lots shall be embraced in one claim.

Section 2, Act of April 23, 1889, P. L. 44.

Section 12. No assessments for paving, curbing or macadamizing under the provisions of sections ten and eleven of this article, shall be a lien on real estate for more than six months from the time of the completion of the entire improvement, unless a claim for the same shall be filed in the office of the prothonotary of the proper county within that time, nor shall the same continue a lien longer than five years from the time of filing the claim, unless revived by scire facias in the manner provided by law in the case of mechanic's claims.

Section 3, Act of April 23, 1889, P. L. 44.
See 26 Sup. Ct. 273. Tarentum Boro v. Moorehead.

Section 13. Every claim shall be a plain statement, in which the coroprate name of the borough shall be used as a plaintiff, and the owner or owners named as defendants, and shall contain a description of the property or properties against which it is filed, the nature and kind of work done, and the time when the same was completed; and every claim filed shall be prima facie evidence of all matter therein set forth.

Section 4, Act of April 23, 1889, P. L. 44.

Section 14. The term "owner" shall be construed to mean all individuals, corporations, public or private, and associations having any title or interest in the property assessed.

Section 5, Act of April 23, 1889, P. L. 44.

Section 15. If the owner to whom notice is required to be given by section ten of this article, is a non-resident of the borough, and his, her or their place of residence is unknown to the clerk or secretary of the borough, or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises, and a copy left with the occupant if there be one.

Section 5, Act of April 23, 1889, P. L. 44.

Section 16. Where the defendant in any writ of scire facias shall be a corporation, and the property assessed cannot be sold, the scire facias shall be proceeded upon to judgment, and a write of fieri facias shall be issued thereon, by virtue of which any personal property of the corporation, wherever situated, may be levied on and sold, or an attachment in execution may be issued as in other cases.

Section 6, Act of April 23, 1889, P. L. 44.

(d) GRADING, PAVING, CURBING, AND MACADAMIZING STREETS, WITHOUT PETITION AND COLLECTION OF TWO-THIRDS OF COST ACCORDING TO FOOT FRONT RULE.

Section 17. All boroughs in this Commonwealth shall have power, without petition of property owners, to grade, pave, curb, macadamize, and otherwise improve public streets, or parts thereof, which are now or may hereafter be laid out and opened in any of said boroughs, and collect, two-thirds of the cost and expense of the same from the owners of real estate bounding or abutting thereon, by an equal assessment on the feet front bounding or abutting as aforesaid; said assessment to be estimated by the street commissioner or person in charge of said work, or other competent authority designated by the council of said borough.

Section 1, Act of May 12, 1911, P. L. 288.

Section 18. The ordinance authorizing and directing such improvement shall be adopted and enacted by the affirmative vote of two-thirds of all the members comprising the council of said borough, and shall be presented to the burgess of said borough, for his approval. If the burgess approve said ordinance, he shall sign it; but, if he shall not approve, he shall return it, with his objections, to the council at the next regular meeting thereof; when said objections shall be entered at large upon the minutes; and at the next succeeding regular meeting of council, after the return of said ordinance, the council shall proceed to a reconsideration thereof. If, after such consideration, all of the members elected to the council shall vote to pass said ordinance, it shall then become and be of as full force and effect as if the burgess had signed it; but, in such case, the vote of the members of the council shall be determined by yeas and nays, and the names and votes of the members shall be entered in the minutes. If such ordinance shall not be returned by the burgess at the next regular meeting of council after the same shall have been presented to him, it shall likewise become and be in as full force and effect as if he had signed it.

Section 1, Act of May 12, 1911, P. L. 288.

Section 19. No such ordinance shall be finally adopted and enacted in less than thirty days from the date of its introduction; and, in the meantime, copies of said ordinance shall be published in a newspaper in said borough, or circulating therein, once a week for two weeks, and by at least five handbills posted along the proposed improvement, ten days before the final passage in council of such ordinance.

Section 1, Act of May 12, 1911, P. L. 288.

Section 20. All municipal assessments for grading, paving, macadamizing, or otherwise improving public streets, or parts thereof, shall be filed with the clerk or secretary of the borough, who shall thereupon cause thirty days' written or printed notice to be given to each party assessed, either by service on the owner or agent or left on the assessed premises, that the assessments are due and payable. If said assessments or any of them shall remain unpaid at the expiration of said notice, the same shall be placed in the hands of the borough solicitor for collection; whose duty it shall be to collect the same, together with five per centum additional as attorney's commission, and interest from the completion of the grading, paving, curbing, macadamizing, or other improvement, by a municipal claim filed against the delinquent owner, describing the premises, upon which a scire facias may issue. When an owner has two or more lots against which there is an assessment for the same improvement, all of said lots shall be embraced in one claim.

Section 2, Act of May 12, 1911, P. L. 288.

Section 21. No assessments for grading, paving, curbing, macadamizing, or other improvement under the provisions of this act, shall be a lien on real estate for more than six months from the time of the completion of such work, unless a claim for the same shall be filed in the office of the prothonotary of the proper county within that time; nor shall the same continue a lien longer than five years from the time of filing the claim, unless revived by scire facias, in the manner provided by law in the case of mechanics' claims.

Section 3, Act of May 12, 1911, P. L. 288.

Section 22. Every claim shall be a plain statement, in which the corporate name of the borough shall be used as a plaintiff, and the owner or owners named as defendants; and shall contain a description of the property or properties against which it is filed, the nature and kind of work done, and the time when the same was completed; and every claim filed shall be prima facie evidence of all matter therein set forth.

Section 4, Act of May 12, 1911, P. L. 288.

Section 23. The term "owner" shall be construed to mean all individuals, corporations, public or private, and associations having any title or interest in the property assessed. If the owner, to whom notice is required to be given by this act, is a non-resident of the borough, and his, her, or their place of residence is unknown to the clerk or secretary of the borough, or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises, and a copy left with the occupant, if there be one.

Section 5, Act of May 12, 1911, P. L. 288.

Section 24. Where the defendant in any writ of scire facias shall be a corporation, and the property assessed cannot be sold, the scire facias shall be proceeded upon to judgment, and a writ of fieri facias shall be issued thereon, by virtue of which any personal property of the corporation, wherever situated, may be levied on and sold, or an attachment in execution may be issued as in other cases.

Section 6, Act of May 12, 1911, P. L. 288.

(e) GRADING, PAVING, CURBING AND MACADAMIZING CONNECTING STREETS, WITHOUT PETITION.

Section 25. All boroughs in this Commonwealth shall have power, without petition of property holders, to grade, pave, curb, macadamize, and otherwise improve public streets, or parts thereof, when said streets, or parts thereof, do not exceed one thousand feet in length, and connect two streets, or parts of a street, theretofore paved and improved.

Section 1, Act of May 7, 1907, P. L. 168, amending Section 1, Act of May 31, 1897, P. L. 114.

Section 26. The ordinance authorizing and directing such improvements shall be adopted and enacted by an affirmative vote of three-fourths of the members-elect comprising the councils of the said borough, and shall be approved by the burgess thereof. No such ordinance shall be finally adopted and enacted in less than thirty days from the date of its introduction, and, in the meantime, copies of said ordinance shall be published in a newspaper in said borough, or circulating therein, once a week for two weeks, and by at least five handbills, posted along the proposed improvement ten days before the final passage in council of such ordinance.

Section 1, Act of May 7, 1907, P. L. 168, amending Section 1, Act of May 31, 1897, P. L. 114.

Section 27. In exercising the power aforesaid all proceedings for the ascertainment of damages and the assessment of benefits incident thereto, shall be as provided in Chapter six, Article two, of this act.

Section 2, Act of May 31, 1897, P. L. 114.

(f) GRADING, PAVING, CURBING, MACADAMIZING AND OTHERWISE IMPROVING STREETS AND ALLEYS, ON PETITION TO COUNCIL OF MAJORITY OF OWNERS IN INTEREST AND NUMBER.

Section 28. Every borough shall also have power, upon the petition of a majority of property owners in interest and number abutting on the line of the proposed improvement, to be verified by

affidavit of one or more parties to said petition majority in interest of owners of undivided interests in any piece of property to be deemed and treated as one person for the purposes of petition, to grade, pave, curb, macadamize, and otherwise improve any public street or public alley, or part thereof, within its corporate limits, or which may be, in whole or in part, boundaries thereof.

Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, May 16, 1891, P. L. 75.

Section 29. The majority in interest and number required for petitions to councils shall be fixed as of the date of the presentation of said petition. After the passage or approval of any ordinance for the opening, widening, straightening, extending, grading, paving, macadamizing or otherwise improving any street or alley, notice shall, within ten days thereafter, be given by handbills posted in conspicuous places along the line of the proposed improvement, which notice shall state the fact of the passage or approval of the ordinance, the date of the passage or approval, that the petition for the improvement was signed by a majority in interest and number of owners of property abutting on the line of the proposed improvement, and that any person interested and denying the fact that said petition was so signed, may appeal to any court of common pleas of the proper county within sixty days from the passage or approval of said ordinance, and any person interested may, within sixty days from the passage or approval of said ordinance, present a petition to any court of common pleas of the proper county setting forth the facts, whereupon the said court shall inquire and determine whether said improvement was petitioned for by the requisite majority, and if said court shall find that it was not so petitioned for, shall quash said ordinance, but if said court shall find that it was so petitioned for, it shall approve the ordinance. If no appeal shall be taken as aforesaid, or if the court on appeal shall approve the ordinance, the borough may proceed with the improvement, and thereafter all parties interested shall be estopped from denying the fact that said petition was signed by the requisite majority of property owners as required by this act.

Section 10, Act of May 16, 1891, P. L. 75.

Section 30. On petition, viewers shall be appointed as provided in Chapter six, Article two, Section two of this act, who shall assess the costs and expenses of the sewer, or grading, paving, curbing, macadamizing, or other improvement of each street or alley, or part thereof within its corporate limits, upon the property benefited according to benefits, if sufficient can be found, but if not, then the deficiency, when finally ascertained, shall be paid by the borough, and the proceedings of said viewers, and the proceedings on their

report, shall be as provided in Chapter six, Article two of this act, for viewers and reports of viewers, in cases of property taken, injured or destroyed.

Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

(g) SUB-GRADING, PAVING, CURBING OR MACADAMIZING UPON PETITION OF FOUR-FIFTHS OF THE OWNERS IN INTEREST AND ASSESSMENT OF TOTAL COST ACCORDING TO THE FOOT FRONT RULE.

Section 31. The council of any incorporated borough of this Commonwealth shall have the power to require, by ordinance, and cause to be subgraded, paved, curbed or macadamized, with brick, stone or other suitable materials, any public street or thoroughfare, or parts thereof, which is now or may hereafter be laid out and opened in any of said boroughs, and collect, in the manner hereinafter provided, the whole of the cost and expense of the same from the owners of the real estate bounding or abutting thereon, by an equal assessment on the feet-front, bounding or abutting as aforesaid; said assessment to be estimated by the borough engineer, street commissioner or person in charge of said work, or other competent authority designated by the council of said borough: Provided, That the council of any such borough shall not require or cause to be subgraded, paved, curbed or macadamized, under this act, any street or thoroughfare, or any part thereof, except upon the petition of the owners of property representing not less than four-fifths in number of feet of the properties fronting or abutting on said street or thoroughfare, or the part thereof proposed to be so improved.

Section 1, Act of April 20, 1905, P. L. 232.

Section 32. After the passage or approval of any ordinance for improving any street, or part thereof, pursuant to the preceding section, if the petition for said improvement has been verified by the affidavit of one or more of the petitioners, notice may be given within ten days thereafter, by handbills posted in conspicuous places along the line of the proposed improvement; which notice shall state the fact of the passage or approval of the ordinance, the date of the passage or approval, that the petition for the improvement was signed by four-fifths of the owners of property, representing not less than four-fifths in number of feet of the property fronting or abutting on said street or thoroughfare, or the part thereof proposed to be paved, and that any person interested, and denying the fact that said petition was so signed, may appeal to any court of common pleas of the proper county, within sixty days from the passage or approval of said ordinance; and any person interested may, within sixty days from the passage or approval of said ordinance, present a petition

to any court of common pleas of the proper county, setting forth the facts; whereupon the said court shall inquire and determine whether said improvement was petitioned for by the requisite four-fifths majority, and, if said court shall find that it was not so petitioned for, shall quash said ordinance; but if said court shall find that it was so petitioned for, it shall approve the ordinance. If no appeal shall be taken, as aforesaid, or if the court on appeal shall approve the ordinance, the borough authorities may proceed with the improvement, and thereafter all parties interested shall be estopped from denying the fact that said petition was signed by the requisite four-fifths majority of property owners, as required by said act.

Section 1, Act of May 5, 1911, P. L. 166.

Section 33. All municipal assessments for paving, sub-grading, curbing or macadamizing, as aforesaid, shall be filed with the clerk or secretary of the borough, who shall thereupon cause thirty days' written or printed notice to be given to each party assessed, either by service on the owner or agent, or left on the assessed premises, that the assessments are due and payable. If said assessments or any of them shall remain unpaid at the expiration of said notice, the same shall be placed in the hands of the borough solicitor for collection; whose duty it shall be to collect the same, together with five per centum additional as attorney's commission, and interest from the completion of the paving, subgrading, curbing or macadamizing, by a municipal claim filed against the delinquent owner, describing the premises, upon which writs of scire facias may issue. When an owner has two or more lots against which there is an assessment for the same improvement, all of said lots shall be embraced in one claim.

Section 2, Act of April 20, 1905, P. L. 232.

Section 34. No assessments for paving, subgrading, curbing or macadamizing, under preceding section shall be a lien on real estate for more than six months from the time of the completion of such work, unless a claim for the same shall be filed in the office of the prothonotary of the proper county within that time; nor shall the same continue a lien longer than five years from the time of filing the claim, unless revived by scire facias, in the manner provided by law in the case of mechanics' claims.

Section 3, Act of April 20, 1905, P. L. 232.

Section 35. Every claim shall be a plain statement, in which the corporate name of the borough shall be used as a plaintiff, and the owner or owners named as defendants; and shall contain a description of the property or properties against which it is filed; the

nature and kind of work done, and the time when the same was completed; and every claim filed shall be prima facie evidence of all matter therein set forth.

Section 4, Act of April 20, 1905, P. L. 232.

Section 36. The term "owner" shall be construed to mean all individuals, corporations, public or private, and associations having any title or interest in the property assessed. If the owner, to whom notice is required to be given by section thirty-three of this article, is a non-resident of the borough, and his, her or their place of residence is unknown to the clerk or secretary of the borough, or if the ownership of the property cannot be ascertained, the notice shall be posted on the premises, and a copy left with the occupant, if there be one.

Section 5, Act of April 20, 1905, P. L. 232.

Section 37. Where the defendant in any writ of scire facias shall be a corporation, and the property assessed cannot be sold, the scire facias shall be proceeded upon to judgment, and a writ of fieri facias shall be issued thereon, by virtue of which any personal property of the corporation, wherever situated, may be levied on and sold, or an attachment in execution may be issued as in other cases.

Section 6, Act of April 20, 1905, P. L. 232.

(h) GRADING, PAVING, CURBING OR MACADAMIZING OF BOUNDARY STREETS AND STREETS OUTSIDE THE BOROUGH LIMITS.

(1) By agreement with first class townships.

Section 38. Boroughs shall have power to enter into agreements with adjoining townships of the first class, for the grading, paving and curbing or macadamizing of streets and alleys which may be in whole or in part the boundaries between such borough and township, and to provide in such contract that the damages, costs and expenses of said improvements shall be divided between such borough and township in the proportion and manner agreed upon.

Section 1, Act of July 10, 1901, P. L. 637, No. 322.
St. Davids Church, v. Sayen, 244 Pa. 300.
Demster v. United Traction Co., 205 Pa. 70.

Section 39. In grading, paving and curbing or macadamizing any street or alley, under the preceding section of this act, which may be in whole or in part in the boundaries as aforesaid, boroughs shall exercise the power herein conferred, upon petition of the councils by a majority of the property owners in interest and number, abutting the portion of the line of the proposed improvement within

the borough limits, to be verified by the affidavit of one or more of the parties to said petition (a majority in interest of owners, or undivided interests in any piece of property, to be deemed and treated as one person for the purposes of petition) asking that such improvement be made; and the portion of the damages, costs and expenses agreed to be paid by any borough shall be ascertained, and the benefits incident thereto shall be assessed and collected, in manner provided in Chapter six, Article two of this act. Boroughs may agree to pay any part of the costs, damages and expenses of such improvements out of the general funds.

Section 2, Act of July 10, 1901, P. L. 637, No. 322.

(2) By agreement with counties and townships.

Section 40. Whenever the center line of any highway constitutes the dividing line between any borough and a township located in the same county, and the authorities of the borough shall enter into a contract with the commissioner of the county and the commissioners or road supervisors of the township to grade, curb, and macadamize or pave such roadway or highway in accordance with the provisions of the Act of the 20th day of May, one thousand nine hundred and thirteen, page two hundred and sixty-seven, entitled "An act providing a method whereby highways, the center line of which constitutes a dividing line between a city or borough and a township in the same county, may be altered or improved and the cost thereof apportioned," such alteration or improvement shall be constructed, and subsequent repairs shall be made under the supervision of the proper authorities of the said borough, and in compliance with the plans and specifications to be agreed upon, in writing, between said borough and the commissioners of the county and the commissioners or road supervisors of the said township. One half of the cost of such repairs shall be borne by the borough.

Drafted from Section 1 and 2, Act of May 20, 1913, P. L. 267.

(3) Streets outside the borough limits.

Section 41. The boroughs of this Commonwealth may, singly or jointly with boroughs, cities or counties, appropriate and expend moneys for the improvement of highways outside of the limits of such cities or boroughs, for the purpose of connecting improved streets in such cities or boroughs with a State highway or State-aid highway; Provided, however, That the part of the highway to be improved to make such connection outside of the borough limits shall be less than one mile in length.

Section 1, Act of May 23, 1913, P. L. 336.

(i) MAINTENANCE AND IMPROVEMENT OF CONDEMNED AND ABANDONED TURNPIKES.

Section 42. When any turnpike, or part thereof, situate in the same or more than one county, be, appropriated or condemned for public use, free of tolls, and the assessment of damages therefor shall have been paid by the proper county; or when any turnpike company or association has or may abandon its turnpike, or any part thereof; or when any turnpike company or association, owning any turnpike, has, or may, be dissolved, such turnpike, or part thereof located within the limits of any borough shall be properly repaired and maintained at the expense of the borough in which the said turnpike, or part thereof, lies, or the same may be improved, by such borough.

Drafted from Section 1, Act of April 25, 1907, P. L. 104, amending Act of April 20, 1905, P. L. 237.

(j) MAINTENANCE AND IMPROVEMENT OF ROADS AND STREETS CONNECTING COUNTY ROADS.

Section 43. Whenever any county shall improve any road located within any borough, under the provisions of an act approved May thirteen, one thousand nine hundred and nine, page five hundred and twenty-seven, entitled "AN ACT amending an act approved the twenty-second day of April, Anno Domini, nineteen hundred and five, entitled 'An act to amend an act, entitled 'An act providing for the permanent improvement of certain public roads or highways in the several counties of this Commonwealth, making such improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension, and alteration of the same, and the vacation of so much of any such road as may thereby become necessary; authorizing the taking of property for such improvement, and providing for the compensation therefor and the damage resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvements, and in thereafter repairing and maintaining said road, and authorizing the levy of a tax to provide a fund for such purposes, approved June twenty-sixth, one thousand eight hundred and ninety-five; providing that public roads and highways may be constructed, improved, and maintained by the several counties of the Commonwealth as county roads, whether existing by other authority or laid out in whole or in part by virtue of this act; and providing that public roads and highways may be originally located, laid out, and established for the purpose of such construction, improvement and maintenance by the several counties, in the manner and by the procedure set out in the amended act, and subject to other provisions thereof; providing for the laying out of a system of main thorough-

fares, to which the establishing, construction, improvement and maintenance of public roads by the counties shall be restricted after January one, one thousand nine hundred and seven; but providing for such establishing, construction, improvement and maintenance of roads not part of said system, upon parties interested paying not less than one-fourth of the original cost of construction; and providing that the county commissioners of any county may provide rules regulating the use of roads constructed and maintained by the counties; and prescribing the penalties for the violation thereof,' and providing that public roads and highways located, established, constructed and improved by the several counties, in the manner and by the procedure set out in the said acts, shall thereafter be township or borough roads, and be maintained and improved by the proper township or borough," such road shall by ordinance enacted by the borough council become a borough road, and the duty of maintaining and keeping the same in repair shall devolve upon the proper borough in which such road lies.

Drafted from Section 1, Act of May 13, 1909, P. L. 527.

Section 44. Whenever any road is improved by a county in accordance with the provisions of an act of Assembly, approved the eleventh day of May, one thousand nine hundred and eleven, entitled "AN ACT providing for original location, laying out and construction of public roads or highways in the several counties of this Commonwealth, and for the permanent improvement of certain public roads or highways therein; making such originally constructed or improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension and alteration of the same, and the vacation of so much of any road as may thereby become unnecessary; providing that the county commissioners of any county may prescribe rules regulating the use of roads constructed or maintained by the various counties, and prescribing penalties for the violation thereof; providing for the taking of property for such improvement, the compensation to be paid therefor, and the payment of damages resulting from such taking, and the manner in which such damages may be determined; providing for the payment of the costs and expenses of such construction or improvement and in thereafter repairing and maintaining said roads; authorizing the levy of a tax or the issuing of bonds to provide a fund for the expense thereof; prescribing the method for improving a county road lying within or traversing a borough, and apportioning the cost of such improvement; and authorizing the vacation of any county road," and its amendments, and when a borough intervenes between two ends of such a county highway, and the borough has failed to properly improve the street or streets constituting the shortest and most reasonable route through said borough, which will

connect the two ends of such highway, it shall be lawful for the councils of such borough to authorize, by ordinance, that the proper officials of the borough contract, with the county commissioners, that the shortest and most reasonable route through said borough connecting the two ends of such highway be improved. Or, when a county highway terminates at the corporate limits of a borough in the same or another county, and connects with a borough street which the borough has failed to properly improve and the county commissioners of the county in which the borough is located deem the improvement of such borough street necessary, in order to make such county highway easily accessible to the residents of the borough or to the traveling public, it shall be lawful for the councils of such borough to authorize, by ordinance, that the proper officials of the borough contract with the county commissioners, that such borough street be improved.

Section 1, Act of May 20, 1913, P. L. 273.

Section 45. Whenever an improvement is made to a borough street pursuant to the preceding section, the cost of such improvement may be divided between the borough and the county. The borough ordinance authorizing the improvement shall stipulate what percentage of the cost, if any, shall be borne by the borough, and what percentage shall be borne by the county. The contract for any such improvement may be taken by the borough, upon the stipulation of the county to pay its proportionate share of the cost, or the improvement may be made by joint contract.

Section 1, Act of May 20, 1913, P. L. 273.

Section 46. Before any highway is improved under sections forty-four and forty-five of this article, the proper borough officials shall agree with the county commissioners for the maintenance of such highway. Such agreement may provide that such highway shall be kept and maintained in good repair by the borough, or it may provide that it shall be kept and maintained in good repair by the county, and the cost thereof paid by the borough to the county.

Section 1, Act of May 20, 1913, P. L. 273.

(k) ASSESSMENT OF COST OF MUNICIPAL IMPROVEMENTS ON PROPERTY OUTSIDE THE BOROUGH LIMITS.

Section 47. Whenever any street, alley, or highway, entirely within the limits of any borough, shall divide the said borough from any other municipality or township located in the same county, the property on the side of said street, alley, or highway, opposite the present line of said borough shall, for a depth of one hundred and fifty feet from said line, be assessed for any and all municipal improvements to or on the streets, alleys, or highways on which the

said property shall abut, in the manner provided by Chapter six, Article two, as if the said property were entirely located within the limits of said borough.

Section 1, Act of May 28, 1907, P. L. 287.

(1) EXPENDITURES FOR PAVING, CURBING AND MACADAMIZING STREETS, LANES AND ALLEYS.

Section 48. The corporate authorities of every borough of this Commonwealth shall have authority and may, in their discretion, expend not exceeding one-half of the annual appropriation for roads and streets, in curbing and paving or macadamizing any street, lane, or alley, or part thereof, in such borough: Provided, That nothing contained in this section shall prevent the said authorities from making any of the said improvements as provided by this act.

Section 1, Act of May 8, 1907, P. L. 183.

CHAPTER VI.

ARTICLE VIII.

PROCEEDINGS FOR THE ASCERTAINMENT AND ASSESSMENT OF COSTS, DAMAGES AND BENFITS FOR GRADING STREETS.

Section 1. On petition of the borough or any person interested to the court of common pleas, viewers shall be appointed as provided in Chapter six, Article two, Section two of this act, who shall assess the damages, costs and expenses of the grading of each road, street or alley, or part thereof within its corporate limits upon the property benefited according to benefits, if sufficient can be found, but if not, then the deficiency, when finally ascertained, shall be paid by the borough, and the proceedings of said viewers, and the proceedings on their report, shall be as provided in Chapter six, Article two, of this act, for viewers and reports of viewers, in cases of property taken, injured or destroyed.

Part of Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

Section 2. In addition to the method provided in section one this article, in all cases where the proper authorities of any borough, within this Commonwealth, may change the grade or lines of any street or alley, or in any way alter or enlarge the same, thereby

causing damage to the owner or owners of property abutting thereon, without the consent of such owner, or in case they fail to agree with the owner thereof for the proper compensation for the damage so done or likely to be done or sustained by reason thereof, or by reason of the legal incapacity of such owner no such compensation can be agreed upon, the court of common pleas of the proper county, on application thereto by petition, either by the burgess and council of such borough or owner of the property for which damage is claimed, or any one on behalf of either, shall appoint three disinterested citizens of such county, who shall meet upon the premises, at a time by them to be appointed, of which they shall give ten days' notice by handbills posted up on such street in the vicinity of the premises; and the said viewers having been first duly sworn or affirmed to perform their duties justly and impartially and a true report make, shall view the said street or alley, and premises affected by the change or enlargement thereof, having due regard to and making just allowance for the advantages which may have resulted or which may seem likely to result to the owner or owners of property abutting thereon, for which damages may be allowed or claimed, and after such comparison shall estimate and determine whether any, and, if any, how much damage such property owner may have sustained, or seem likely to sustain, by reason thereof, and make report of the same to the next term of court; and, if no exceptions be filed within ten days thereafter, the court shall confirm the same and enter judgment thereon with costs, from which judgment either party shall be entitled to an appeal as in other cases.

Section 1, Act of April 27, 1911, P. L. 89, amending Act of May 24, 1878, P. L. 129.

Seaman v. Washington Boro., 172 Pa. 467.
Deer v. Sheraden Boro. 220 Pa. 307.
In Re Brady Street, 99 Pa. 591.

Section 3. Each viewer appointed in pursuance of the preceding section shall be entitled to receive one dollar and fifty cents per day, and mileage at the rate of ten (10) cents per mile actually and necessarily traveled by each viewer from his residence to the nearest point of the street or alley to be viewed.

Section 1, Act of June 24, 1895, P. L. 248, amending part of Act of May 24, 1878, P. L. 129.

Section 4. An appeal may also be taken to the court of common pleas in accordance with the provisions of Sections 11 and 12 of Chapter VI, Article I of this act.

Drafted in view of the decisions in Bowers v. Braddock Boro. 172 Pa. 596.

Gwinner v. Railroad, 55 Pa. 126.

CHAPTER VI.

ARTICLE IX.

COLLECTION BY INSTALMENTS OF THE COST OF GRADING STREETS.

Section 1. In addition to the methods provided for the payment and collection of the costs and expense of grading streets, alleys or any highways, or parts thereof, by the boroughs of this Commonwealth, said boroughs shall have power to ordain that said costs and expense may be paid and collected in accordance with the provisions of this article.

Section 1, Act of May 21, 1913, P. L. 277, amending Section 1, Act of June 15, 1911, P. L. 971.

Section 2. Whenever the council of any borough shall, by ordinance, authorize the grading or sub-grading of any streets, avenues, alleys, courts, or any highways or parts thereof, in said borough; and the entire cost, or any part of the costs, of the said improvement, shall be assessed against the properties fronting and abutting on and along said improvement, whether by the foot-front rule or according to benefits; it shall be lawful for the council of the said boroughs to provide, in said ordinance, that the said assessments may be paid in semi-annual or annual instalments, which instalments shall bear interest at a rate not execeeding six (6) per centum, from the date of the commencement of the work or construction of the said improvement, until paid; and in order to provide for the payment of the cost and expense of such improvement as it progresses, the council of said borough may from time to time, issue bonds in such sums as may be required, in all to an amount not exceeding the amount of said assessments. Said bonds shall bear the name of the street, avenue, or alley, or part thereof, to be improved, and shall rest alone for their security and payment upon the said assessments; and shall be payable at periods not exceeding five (5) years from the date of their issue, to be provided in the ordinance directing the improvement; and shall bear interest at a rate not exceeding six (6) per centum per annum, payable semi-annually or annually, as the council in said ordinance shall direct. Said bonds shall be negotiated at not less than par, and the proceeds thereof applied solely to the payment of the costs of said improvement. In case the said bonds are not negotiated by the council, they may be delivered to the contractor in payment of the work, but when so delivered must be at their par value.

Section 2, Act of May 21, 1913, P. L. 277, amending Section 2, Act of June 15, 1911, P. L. 971.

Section 3. Liens to secure the said assessment shall be entered in the prothonotary's office of the proper county; in the same form and with like effect, and shall be collected in the same manner, as other municipal liens are now filed and collected, according to the laws of this Commonwealth providing for the filing and collection of municipal liens.

Section 3, Act of June 15, 1911, P. L. 971.

Section 4. Such assessments shall be payable at the office of the borough treasurer, or such other place as the ordinance shall provide, in equal semi-annual or annual instalments, with interest at the rate provided in said bonds, from the date from which interest was computed on the amount of the assessment, or so much as remains unpaid from time to time, until all said assessments and interest are fully paid. The moneys so received by the borough shall be applied to the payment of said bonds exclusively.

Section 4, Act of June 15, 1911, P. L. 971.

Section 5. In case of default in the payment of any semi-annual or annual instalment of said assessment and interest, for a period of sixty (60) days after the same shall become due and payable, the entire assessment and accrued interest shall become due and payable, and the borough solicitor shall proceed to collect the same under the provisions of the general laws creating and regulating municipal liens and proceedings thereon.

Section 5, Act of June 15, 1911, P. L. 971.

Section 6. Any owner of any property, against whom an assessment shall have been made for such improvement, shall have the right to pay the same, or any part remaining unpaid, in full, with interest thereon to the next semi-annual payment due on said assessment; such payment shall discharge the lien. If any owner shall subdivide any property after such lien attaches, he in like manner may discharge the same upon any subdivided portion thereof by paying the amount for which said part would be liable.

Section 6, Act of June 15, 1911, P. L. 971.

Section 7. Whenever any borough shall issue improvement bonds in pursuance of this article, the secretary of the borough council shall keep a registry book, prepared by him, in which the said bonds shall be registered. Said registry shall show the date of the issue of the bond, the amount of the bond, the name and address of the person, firm or corporation to whom the same is issued, which shall also be noted on the back of said bond: Provided, however, That the said bonds may be transferred at any time by proper adjustments; in which case the secretary shall make the proper entry of the said

assignments in said registry book and on said bonds, and file said assignments among the records of the borough; and payment of said bonds and interest thereon shall be made only to the last registered owner.

Section 7, Act of June 15, 1911, P. L. 971.

CHAPTER VI.

ARTICLE X.

ROADS AND HIGHWAYS CROSSING RAILROADS.

(A). CONSTRUCTION OF CROSSINGS.

Section 1. Except as in this article otherwise provided, all crossings of railroads by highways shall be above or below the grade thereof.

Section 1, Act of June 7, 1901, P. L. 531.

Section 2. Every borough constructing a highway across an existing railroad, shall construct the same above or below the grade thereof, unless permitted, in the manner hereinafter provided, to construct the same at grade, and the cost of said work shall be paid one-half by said borough and one-half by the railroad company owning said railroad.

Section 3, Act of June 7, 1901, P. L. 531.

Section 3. Whenever it shall be desired by any borough constructing a new highway that the highway should be so constructed that the railroad and highway shall cross each other at the same grade, a petition shall be presented by the borough to the court of common pleas of the district within which said crossing is situated, upon ten days' notice to the corporation owning said railroad, describing the proposed construction, and setting forth the reasons that are supposed to make the same necessary or desirable; and the court of common pleas shall thereupon have jurisdiction of the parties and the subject matter of such petition, and may proceed summarily or otherwise, and upon such notice as it shall deem sufficient, to examine the matter, either by evidence, by reference to a master or to commissioners or otherwise, and if satisfied that such construction is reasonably required to accommodate the public or to avoid execessive expense in view of the small amount of traffic on the highway or railroad, or in view of the difficulties of other methods of construction, or for other good and sufficient reasons,

then it shall make an order or orders permitting such crossing at grade to be established; and it may, in such orders, in its discretion, prescribe what gates, signals or other safeguards shall be maintained by the railroad company, in addition to the signals and safeguards prescribed by statute; and all such orders shall be binding upon the parties, and shall be observed by them; all costs and expenses of the proceedings shall be ascertained and allowed by the court of common pleas, and shall be paid by such party as it shall decide, or be by it apportioned between the parties, and may be collected by execution out of said court.

Section 4, Act of June 7, 1901, P. L. 531.

Section 4. Any borough may of its own motion, at any time, at its own cost, vacate and alter any railroad grade crossing of a highway, within its limits, by passing the highway over or under the grade of the railroad: Provided, That no highway which has been constructed at grade, by permission of the court of common pleas, shall be so altered without like permission, unless by agreement with the railroad company: And Provided, further, That such alteration shall not, without the consent of the railroad company, create steeper gradient than the established gradient, in the same direction, upon the division of said railroad upon which the crossing is located. The said borough shall, before proceeding with the work, give thirty days' notice to the railroad company of the proposed vacation, alteration and change, with plans and details thereof; and it shall be the duty of the railroad company, in case the highway is to be carried under the railroad, to protect and support the railroad tracks during the progress of the work, and in case of the failure of the railroad company so to do, the borough may proceed to enter upon the railroad and provide for such protection and support.

Section 6, Act of June 7, 1901, P. L. 531.

Section 5. If any additional lands or rights or easements therein are necessary or required for the changes of highways, or the locations of new highways or passageways, such lands may be taken by the borough by purchase or condemnation, and the cost of the same shall be deemed a part of the cost of the changes and alterations, and paid for in like manner as the other expenses thereof. The railroad companies interested in the proposed improvements shall have notice of any such condemnation proceedings, and the right to be heard therein, and no such purchase shall be made without the approval of the railroad company.

Section 7, Act of June 7, 1901, P. L. 531.

Section 6. In case the parties interested cannot agree upon the damages sustained by any person, through the alteration of the grade of any public highway, as aforesaid, the same shall be deter-

mined by a jury, in the court of common pleas for the district where the crossing and property are situated, upon petition brought by any party so claiming to be damaged, as aforesaid, within one year after the decree of the court shall have been rendered in the proceedings aforesaid.

Section 8, Act of June 7, 1901, P. L. 531.

(B). VACATION OF GRADE CROSSINGS.

Section 7. Wherever any railroad is or shall be crossed at grade by a public road, street, or highway, and the railroad company shall have constructed or shall construct, or there shall have been or shall be constructed by others, with such company's consent, an undergrade subway or an overgrade bridge or crossing sufficiently near said public crossing to reasonably accomodate the traveling public, the court of quarter sessions of the county in which the said crossing exists, upon petition of said railroad company or other persons, may, if satisfied that said undergrade subway or overgrade bridge or crossing reasonably accommodates the traveling public, after notice to any corporation using or occupying or authorized to use or occupy the street, proposed to be vacated, with tracks, wires, pipes or conduits, and, by rule to show cause, and after testimony, taken either in open court or by deposition, as the court may direct, order that said road, street, or highway where it crosses said railroad at grade, and its approaches on both sides, shall be vacated, and that the said undergrade crossing or subway or the overgrade bridge or crossing and its approaches on both sides, substituted therefor, shall be a public highway, and be maintained by the proper authorities; and any company which had rights in or upon the street so vacated shall have, and be permitted to exercise, the same rights upon said streets, highways, bridges, and subways, so opened, and to connect the same with its system without obtaining further authority or consent.

Section 1, Act of April 22, 1905, P. L. 295.

CHAPTER VI.

ARTICLE XI.

(A). PLANS OF STREETS.

Section 1. Every borough shall have a general plan of its streets and alleys, including those which have been or may be laid out, but not opened; which plan shall be filed in the office of the engineer

or other proper office of the borough, and all subdivisions of property thereafter made shall conform thereto. The location of streets or alleys, or parts thereof, laid out and confirmed by authority of councils; shall not afterwards be altered without the consent of councils; and no map or plot of streets or alleys, shall be entered or recorded in any public office of the county in which said borough is situated until approved by councils. No person shall hereafter be entitled to recover any damages for the taking for public use of any buildings or improvements of any kind which may be placed or constructed upon or within the lines of any located street or alley, after the same shall have been located or ordained by councils.

Section 1, Act of July 22, 1913, P. L. 902, amending Section 12, Act of May 16, 1891, P. L. 75.

(B). LOCATION OF STREETS.

Section 2. Every borough shall have power, by ordinance, to locate streets and alleys, and to include therein streets and alleys, or parts thereof, theretofore opened or used for highway purposes; and to locate streets or alleys, theretofore opened or used for highway purposes, of a greater width, and to include therein such streets or alleys, or parts thereof; and to revise the lines of such streets or alleys in accordance therewith, and to place the same on the general plan of the streets and alleys of such borough of such greater width. All subdivisions of property thereafter made shall conform thereto.

Section 1, Act of May 15, 1913, P. L. 212, supplementing Act of May 16, 1891, P. L. 75.

Section 3. No such location shall be construed to authorize the entry upon, taking, or appropriation of any property, within such located street or alley, not theretofore opened or used for highway purposes; nor shall the same interfere in any way with the rights of the owners to the full use and enjoyment of such property, except that, whenever thereafter such located street or alley shall be ordered to be opened, widened, extended, or straightened according to such location, buildings erected upon property within the lines of such located streets or alleys after such location was made, shall be removed at the expense of the owner, and without any liability therefor to such borough.

Section 1, Act of May 15, 1913, P. L. 212, supplementing Act of May 16, 1891, P. L. 75.

CHAPTER VI.

ARTICLE XII.

SIDEWALKS.

(A). GRADING, PAVING AND REPAIRING SIDEWALKS AND CONSTRUCTING AND REPAIRING CURBS AND GUTTERS.

Section 1. That all boroughs are hereby authorized and empowered to direct and require the grading, paving, repaving and repairing of all sidewalks on the streets of the borough, and the constructing and repairing of curbs and gutters at the edge of the sidewalks, by the owner or owners of the lot or lots of ground fronting thereon, in accordance with the general borough regulations.

Section 1, Act of April 20, 1905, P. L. 235.
McDevitt v. Gas Co., 160 Pa. 367.

Section 2. On the neglect or refusal of the owner or owners of the lot or lots, as aforesaid, to comply with such requirements and directions, the officers of the borough may cause the grading, paving, repaving, repairing, curbing, recurbing, guttering and reguttering, as aforesaid, to be done at the cost of such owner or owners of the lot or lots, and may collect the cost thereof and ten per centum additional, together with all charges and expenses, from such owner or owners, and may file a municipal lien therefor against such lot or lots.

Section 2, Act of April 20, 1905, P. L. 235.

Section 3. Boroughs may require sidewalks, boardwalks and curbstone to be laid, set and kept in repair, and after notice to the owner or owners of property to lay, set or repair such walks or stone in front of his, her or their property, and his, her or their failure to do so, the boroughs may do the necessary work and assess the cost thereof upon the property of said owner or owners in front or along which said walk or curbstone so laid, set or repaired, shall be situate, and file a lien therefor or collect the same by action of assumpsit.

Section 11, Act of May 16, P. L. 75.

Section 4. All notices to build or repair sidewalks in any borough of this Commonwealth, issued by the borough authorities under their regulations, shall be served upon the owner of the premises to which such notice refers, if said owner be a resident of the borough.

If said owner be not such resident, then said notice may be served on the agent or tenant of said owner or upon the occupant of said premises. If said owner have no agent or tenant, or there be no occupier of said premises, then by printed or written notice tacked upon the premises.

Section 1, Act of May 24, 1901, P. L. 297.

Section 5. The town councils of the several boroughs of this State may, in their discretion, pay a portion of the cost and expense of grading and curbing sidewalks.

Section 1, Act of June 19, 1901, P. L. 573.

Section 6. Complaint may be made to the next court of quarter sessions, of the proper county, upon entering into recognizance, with sufficient security according to law, to prosecute the same with effect, and for the payment of costs, by any person aggrieved in consequence of any ordinance, regulation or act done, or purporting to be done, and the determination and order of the said court thereon shall be conclusive.

Section 27, Clause 2, Act of April 3, 1851, P. L. 320, as amended by Section 2, Act of May 22, 1883, P. L. 39.

Section 7. Upon the complaint of any person or persons aggrieved by any regulation, in relation to the grading or other regulations of sidewalks, pavements, gutters and culverts, the said court shall take such order as may be just and reasonable, and the final order of the said court shall be conclusive.

Section 27, Clause 3, Act of April 3, 1851, P. L. 320, as amended by Section 2, Act of May 22, 1883, P. L. 39.

(B). LAYING OUT SIDEWALKS, GUTTERS, CULVERTS AND DRAINS ALONG THE SIDES OF TURNPIKE ROADS.

Section 8. Whenever the burgess and town council of any borough shall open or be about to open, or to survey, lay out, enact and ordain footwalks, pavements, gutters, culverts and drains, over and upon the lands abutting on and along the sides of turnpike roads which may be within the limits of said borough, and to fix the size and width thereof, it shall be lawful for said burgess and town council, or a majority of them, to apply by petition to the court of common pleas of the proper county, setting forth the facts, and describing the locality of such footwalks, pavements, gutters and drains, and praying said court to appoint three disinterested freeholders of such county, who after being first duly sworn or affirmed to perform their duties with impartiality and fidelity, shall proceed to view the premises described in said petition, having regard to both the advantages and disadvantages, caused to the several properties along

the line of said improvement, and shall assess and allow to all persons injured thereby such damages as they shall have sustained, respectively, over and above all advantages, and shall also make assessments for contribution upon all such properties as shall be benefited by laying out, enactment and ordaining of such footwalks, pavements, gutters, culverts and drains, such sums, respectively, as they may have been benefited over and above all disadvantages.

Section 1, Act of May 2, 1901, P. L. 113, amending Section 1, Act of April 22, 1856, P. L. 525.

Mercersburg College, 53 Sup. Ct., 388.

Section 9. The said viewers shall make report of their proceedings in writing to the next session of said court, describing the properties upon which assessments have been made, specifically stating whether for contribution or for damages, with the amounts respectively, and the said court may at the next session thereafter, or at any subsequent session, on the hearing of such parties as choose to contest the same, modify, approve and confirm the said report, which confirmation shall be final and conclusive upon all parties; and the said burgesses and council may proceed to collect all such damages and assessments for contribution, in the same manner as other debts due such boroughs are by law collectible.

Section 2, Act of April 22, 1856, P. L. 525.

CHAPTER VI.

ARTICLE XIII.

SEWERS.

(a) POWER TO ORDAIN, AND ASSESSMENT OF DAMAGES AND BENEFITS.

Section 1. Every borough shall have power to survey, lay out and ordain such common sewers as may be deemed necessary.

Section 2, Cl. 2, Act of April 3, 1851, P. L. 320.

Section 2. Every borough shall have power to lay out and establish sewers and drains in any street or alley or through, or on, or over private property.

Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

See McDonough v. Washington Boro, 20 Pa. C. C. 345.

Section 3. On petition viewers shall be appointed as provided in Chapter VI Article II, Section 2, of this act, who shall assess the damages, costs and expenses of the sewer or part thereof within its corporate limits upon the property benefited according to benefits, if sufficient can be found, but if not, then the deficiency, when finally ascertained, shall be paid by the borough and the proceedings of said viewers and the proceedings on their report shall be as provided in Chapter VI, Article II of this act, for viewers and reports of viewers, in cases of property taken, injured or destroyed.

Part of Section 1, Act of April 28, 1899, P. L. 100, amending Section 8, Act of May 16, 1891, P. L. 75.

(b) POWER TO ADOPT SEWER SYSTEMS AND COLLECT COST ACCORDING TO FOOT FRONT RULE OR OTHERWISE.

Section 4. The burgess and town council of any borough within this Commonwealth, now or hereafter to be incorporated, shall have full power and authority, by ordinance or ordinances duly passed, to adopt and construct such system or systems of public sewerage as in the judgment of the said council may be necessary, from time to time, for the disposal of the waste water and other sewage matter from the said borough; and for this purpose the said burgess and council shall have full power to fix the place or places in and along the streets, lanes, alleys, courts, or highways in said borough, where sewer-mains or drains, and branches thereof, shall be laid down, and to prescribe the manner in which they shall be constructed: Provided, That no contract for the construction of any system or systems of public sewers shall be entered into until a permit for the construction of the same shall have been obtained from the Commissioner of Health.

Section 1, Act of April 23, 1907, P. L. 97, amending Act of May 1, 1889, P. L. 220.

See McDonough v. Washington Boro, 20 Pa. C. C. 345.

Section 5. Whenever any borough shall determine to construct any public sewer as provided in the preceding section, it shall have power, by ordinance or ordinances duly passed to assess the cost thereof as a sewage tax upon the property adjoining or adjacent to the same, either by the foot-front or in such other manner and in such proportions and amounts as to the burgess and town council may seem just and equitable, which assessment of sewage tax, duly certified under the seal of the said borough, attested by the burgess or the president of council and clerk thereof, shall be collectible from the owner of such property as debts of like amount are now by law collectible, and such certificate of assessment shall be prima facie evidence in any suit for recovering the same, of the correctness and validity thereof: Provided, That nothing shall pre-

vent the construction of any public sewer and the payment of the same by general taxation, when the same is for the general health and public welfare of said borough.

Section 2, Act of May 1, 1889, P. L. 220.

Section 6. If the owner of any property against which an assessment for sewage tax has been laid, as provided for in the preceding section, shall fail or refuse to pay such assessment within sixty days after having notice of the same, it shall be lawful for the said borough, in its corporate name, to immediately file a claim therefor in the court of common pleas of the proper county, against the property upon which said assessment is laid. And said lien shall be filed and collected in the same manner as municipal claims are filed and collected in this Commonwealth.

Section 3, Act of May 1, 1889, P. L. 220.
See Act of 1901, P. L. 364.

Section 7. The burgess and town council of any borough, upon adopting and proceeding to construct a system of public sewage, shall have full power and authority by ordinance or ordinances duly passed to provide for and regulate the manner in which, and the terms upon which, connections therewith by property owners may be made, and whenever the said borough shall deem it necessary and proper for the preservation of the public health or for other cause, either upon the report of any health committee or board of health or otherwise, that any property owner should connect his or her premises with the public sewer, for the purpose of having the fecal matter and other waste therefrom discharged into such sewer, the burgess and town council thereof shall have power to compel such connection to be made, whenever such property abuts upon or is within fifty feet of a sewer main or branch thereof, in the same manner and under the same regulations as other connections with said sewer are made.

Section 4, Act of May 1, 1889, P. L. 220.

Section 8. And if any property owner, after sixty days' notice so to do by resolution of the said council, shall refuse to have his premises so connected, it shall be lawful for the said burgess and council to enter upon said premises and have the same done, and to collect the cost thereof as a sewage tax from such property owner, either by personal action or by lien against the premises, in the same manner as is hereinbefore provided for the collection of other sewage tax.

Section 4, Act of May 1, 1889, P. L. 220.

Section 9. The said council shall also have power to enforce by appropriate penalties, such regulations as it may ordain with reference to the proper use, connection with and maintenance of such sewage system.

Section 4, Act of May 1, 1889, P. L. 220.

Section 10. To effectually carry out the foregoing provisions the burgess and town council of any borough shall have full power to do and ordain whatever may be necessary in order to secure proper and safe disposal of the sewage from any borough; and for this purpose it shall be lawful for the said burgess and town council to extend the necessary sewer mains or outlets beyond the limits of such borough to the point or points where such sewage is to be deposited; and the said borough, by its agents, engineers and workmen, shall have full power to enter upon and construct such mains or outlets in and along any public highway, or in and across any private lands, at such place or places and in such manner as shall by ordinance be directed, and likewise to enter upon, condemn and take such lands, property or materials for the construction of all such sewer mains or outlets and works as may be necessary for the disposal of such sewage: Provided, however, That no borough ordinance for the construction of any sewer beyond borough limits, or works connected therewith, shall be adopted until notice thereof has been given, by the publication of the proposed ordinance at length for at least four weeks in not less than one newspaper published in said borough, or in the county in which said borough is situate, and also by having copies of such proposed ordinance served upon all land-owners through whose land such sewer is to pass, at least ten days before final action thereon.

Section 5, Act of May 1, 1889, P. L. 220.

Section 11. Before any entry shall be made upon private property, without the owner's consent, for the purpose of laying down any sewer or outlet therefrom or constructing works connected therewith as provided for in the preceeding section, security for all damages which may be done thereby shall first be given to such owner, in such form and in such amount as a court of common pleas of the proper county may direct, and all damages caused by the construction of any such sewer or sewer works, or by the taking of lands and materials therefore, shall be ascertained in the same manner as damages for the taking of lands for railroad purposes are now ascertained in this Commonwealth, and shall be laid out of the borough treasury.

Section 6, Act of May 1, 1889, P. L. 220.

(c) JOINT SEWERS.

Section 12. Whenever in the construction of a sewage system, including trunk-line sewers or drains and a sewage-disposal plant or plants, or either, after plans and specifications have been prepared and submitted to the State Department of Health, and approved in accordance with the Act of Assembly of April twenty-second, one thousand nine hundred and five, entitled "An act to preserve the purity of the waters of the State, for the protection of the public health," it shall be necessary or advisable for any borough and a municipality or a township, to use such sewage system in common, then, and in such case, such borough may unite with a municipality or township in the construction and ownership of such sewage system, and shall jointly maintain the same.

Section 2, Act of June 15, 1911, P. L. 966, amending Section 1, of Act of May 1, 1909, P. L. 306.

Section 13. Any borough is hereby authorized to enter into an agreement with any municipality or township for the purpose of building sewers as provided in the preceding section of this act.

Section 2, Act of June 15, 1911, P. L. 966, amending Section 2, Act of May 1, 1909, P. L. 306.

Section 14. Any borough may connect with the sewer or sewers owned by any adjacent or adjoining municipality, for sewage purposes, in the manner and subject to the conditions prescribed in Section fifteen of this article.

Section 1, Act of July 17, 1901, P. L. 668.

Section 15. Whenever any borough shall desire to connect with the sewer of any adjacent municipality, for sewage purposes, an application shall be made by councils to the court of quarter sessions of the proper county, setting forth that fact; and if the court shall be of the opinion that this can be done without in any way impairing the usefulness of the existing sewer, it shall appoint three viewers, who shall personally view and inspect the sewer and the proposed connection therewith, and investigate all other facts in the case, and levy and assess the damages, or proportionate part of the expense of building the original sewer, which the petitioning borough should pay, and also fix the proportion of the expense for repairs which each municipality shall thereafter bear, and determine all other questions liable to arise in connection therewith; and thereupon report to the court the result of their investigation and deliberations, which said report shall be confirmed within thirty days after the filing, unless an appeal should be taken therefrom, which appeal shall

be prosecuted as similar appeals are now by law required to be prosecuted; and either party may appeal from the decision of the court of quarter sessions to the Superior Court.

Section 2, Act of July 17, 1901, P. L. 668.

(d) ACQUISITION OF SEWER SYSTEMS.

Section 16. It shall be lawful for any borough in which any corporation created and existing under and by virtue of the laws of this Commonwealth, or any person or persons or unincorporated associations, have constructed and are maintaining or may hereafter construct and maintain sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, for surface, under surface and sewage drainage, to become the owners of such sewers, culverts, conduits, and pipes, with the necessary inlets and appliances, for surface, under surface, and sewage drainage, and the property of such company, person or persons, or unincorporated associations, by paying therefor the actual value of the same at the time of taking by the borough.

Section 1, Act of July 21, 1913, P. L. 865, amending Section 1, Act of April 19, 1901, P. L. 82.

Section 17. In case of disagreement as to the amount to be paid, the same shall be ascertained in the same manner as damages are ascertained for private property taken, injured or destroyed by reason of improvements under Chapter VI, Article II of this act.

Section 2, Act of April 19, 1901, P. L. 82.

Section 18. Whenever the amount to be paid by any borough to any corporation, person or persons, or unincorporated association, for the acquisition of sewers, culverts, conduits and pipes, with the necessary inlets and appliances, shall have been ascertained, it shall be lawful for the court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition by said municipal corporation or any person interested, to appoint viewers, who shall assess the costs and expenses of the sewers, culverts, conduits and pipes, with the necessary inlets and appliances, acquired by said municipality, upon the property benefited, according to benefits, if sufficient can be found; but, if not, then the deficiency when finally ascertained shall be paid by the borough; and the proceedings of said viewers, and the proceedings on their report shall be as provided in Chapter VI, Article II of this act.

Section 2, Act of July 21, 1913, P. L. 865, amending Act of April 19, 1901, P. L. 82, by adding Section 3.

(e) COLLECTION BY INSTALLMENT OF THE COST OF BUILDING AND ACQUIRING SEWERS AND SEWER SYSTEMS.

Section 19. In addition to the methods provided for the payment and collection of the costs and expense of building and acquiring sewers and sewer systems, by the boroughs of this Commonwealth, said boroughs shall have power to ordain that said costs and expense may be paid and collected in accordance with the following provisions.

Section 1, Act of May 21, 1913, P. L. 277, amending Section 1, Act of June 15, 1911, P. L. 971.

Section 20. Whenever, the council of any borough, in this Commonwealth shall, by ordinance, authorize the construction, or building, or acquisition of any sewer or system of sewers; and the entire cost, or any part of the costs, of the said improvement, shall be assessed against the properties fronting and abutting on and along said improvement, whether by the foot-front rule or according to benefits; it shall be lawful for the council of the said boroughs to provide, in said ordinance, that the said assessments may be paid in semi-annual or annual installments, which installments shall bear interest at a rate not exceeding six (6) per centum, from the date of the commencement of the work or construction of the said sewer or sewer system, until paid; and in order to provide for the payment of the cost and expense of such improvement as it progresses, the council of said borough may, from time to time, issue bonds in such sums as may be required, in all to an amount not exceeding the amount of said assessments. Said bonds shall bear the name of the sewer system built, and shall rest alone for their security and payment upon the said assessments; and shall be payable at periods not exceeding five (5) years from the date of their issue, to be provided in the ordinance directing the improvement; and shall bear interest at a rate not exceeding six (6) per centum per annum, payable semi-annually or annually, as the council in said ordinance shall direct. Said bonds shall be negotiated at not less than par, and the proceeds thereof applied solely to the payment of the costs of said improvement. In case the said bonds are not negotiated by the council, they may be delivered to the contractor in payment of the work, but when so delivered must be at their par value.

Section 2, Act of May 21, 1913, P. L. 277, amending Section 2, Act of June 15, 1911, P. L. 971.

Section 21. Liens to secure the said assessment shall be entered in the prothonotary's office of the proper county; in the same form and with like effect, and shall be collected in the same manner, as

other municipal liens are now filed and collected, according to the laws of this Commonwealth providing for the filing and collection of municipal liens.

Section 3, Act of June 15, 1911, P. L. 971.

Section 22. Such assessments shall be payable at the office of the borough treasurer, or such other place as the ordinance shall provide, in equal semi-annual or annual installments, with interest at the rate provided in said bonds, from the date from which interest was computed on the amount of the assessment, or so much as remains unpaid from time to time, until all said assessments and interest are fully paid. The moneys so received by the borough shall be applied to the payment of said bonds exclusively.

Section 4, Act of June 15, 1911, P. L. 971.

Section 23. In case of default in the payment of any semi-annual or annual installment of said assessment and interest, for a period of sixty (60) days after the same shall become due and payable, the entire assessment and accrued interest shall become due and payable, and the borough solicitor shall proceed to collect the same under the provisions of the general laws creating and regulating municipal liens and proceedings thereon.

Section 5, Act of June 15, 1911, P. L. 971.

Section 24. Any owner of any property, against whom an assessment shall have been made for such improvement, shall have the right to pay the same, or any part remaining unpaid, in full, with interest thereon, to the next semi-annual payment due on said assessment; such payment shall discharge the lien. If any owner shall sub-divide any property after such lien attaches, he in like manner may discharge the same upon any sub-divided portion thereof by paying the amount for which said part would be liable.

Section 6, Act of June 15, 1911, P. L. 971.

Section 25. Whenever any borough shall issue bonds in pursuance of this act, the secretary of the borough council shall keep a registry book, prepared by him, in which the said bonds shall be registered. Said registry shall show the date of the issue of the bond, the amount of the bond, the name and address of the person, firm, or corporation to whom the same is issued, which shall also be noted on the back of said bond: Provided, however, That the said bonds may be transferred at any time by proper adjustments; in which case the secretary shall make the proper entry of the said assignments in said registry book and on said bonds, and file said assignments among the records of the borough; and payment of said bonds and interest thereon shall be made only to the last registered owner.

Section 7, Act of June 15, 1911, P. L. 971.

(f) POWER WITH REGARD TO SEWER CONNECTIONS.

Section 26. The burgess and town council of any borough in this Commonwealth shall have power, by resolution or ordinance duly enacted, to require any owner of property in the borough, abutting on or adjoining any street or alley in which is a public sewer, to make connection with such sewer, in such manner and under such regulations as the borough may order, for the purpose of discharge of such drainage or waste matter as the borough may specify, into such sewer; and to that end, the owner shall be given three months notice of the resolution or ordinance of the borough requiring such connection. Should the owner fail to connect within that time, then the borough is empowered to make the connection, and to collect the cost thereof from the owner as other debts due the borough are collectible: Provided, however, That the manner and regulations relative to all connections required by the borough shall be uniform.

Section 1, Act of May 21, 1901, P. L. 265.

(g) UNLAWFUL TO BUILD WITHIN LINE OF SEWERS AFTER NOTICE.

Section 27. It shall not be lawful for any owner or owners, occupier or occupiers of lands, buildings or other improvements, to erect any buildings or make any improvements within the lines of the common sewers, laid out or ordained to be laid out, after due notice thereof, and if any such erection or improvement shall be made, no allowance shall be made therefor in the assessment of damages.

Section 27, cl. 5, Act of April 3, 1851, P. L. 320.

(h) COMPLAINTS TO COURT OF QUARTER SESSIONS.

Section 28. Complaint may be made to the next court of quarter sessons of the proper county, upon entering into recognizance, with sufficient security according to law, to prosecute the same with effect, and for the payment of costs, by any person aggrieved in consequence of any ordinance, regulation or act done, or purporting to be done, in virtue of this article, and the determination and order of the said court thereon shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending Section 27, cl. 3, Act of April 3, 1851, P. L. 320.

See Rebie v. Walton, 18 Pa. C. C. 289.

Section 29. Upon the complaint of any person or persons aggrieved by any regulation under the provisions of this act in relation to the laying out of the common sewers and drains, or of the open-

ing, or other regulations thereof, the said court shall take such order as may be just and reasonable, and the final order of the said court shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending Section 27, cl. 3, Act of April 3, 1851, P. L. 320.

(i) SEWERS TO BE OPENED WITHIN TWO YEARS AFTER ENACTMENT OF ORDINANCE.

Section 30. If any borough within this Commonwealth has heretofore surveyed, laid out, enacted, or ordained, or shall hereafter survey, lay out, enact, or ordain, any common sewer, over or under private property located in whole or in part within the limits of said borough, and proceedings to open the same and to assess the damage arising therefrom shall not be proceeded with by the borough within two years from the enactment of said ordinance, it shall be null and void.

Section 1, Act of June 1, 1911, P. L. 541.

CHAPTER VI.

ARTICLE XIV.

CONTRACTS WITH STREET RAILWAYS.

Section 1. In case the local authorities of any borough shall deem it necessary for the public benefit and convenience to secure the removal of any street railway tracks already laid, or prevent the laying of such tracks already authorized to be laid, or to change the route of any street railway on any street or streets, or portion of a street or streets, within its corporate limits, and such purpose or purposes can be accomplished by agreement with the street passenger railway company or motor power company owning, leasing or operating such tracks, it shall and may be lawful for the said borough to enter into a contract with such street passenger railway company, for a period not exceeding fifty years, for such consideration and upon such terms and conditions, and containing such stipulations, reservations and covenants as may be agreed upon between the respective parties thereto.

Part of Section 1, Act of May 3, 1905, P. L. 379.

Section 2. Such contract may include a covenant providing that, during the continuance thereof, municipal consent shall not be granted to any other company to use or occupy the street, streets, or portions of a street or streets, covered by such contract, for street railway or passenger transportation purposes; which covenant shall be enforceable by bill in equity against such borough, in case of attempted breach thereof; and such contract may also provide for the laying or relaying of such tracks, upon such terms and under such contingencies and conditions as may be agreed upon.

Part of Section 1, Act of May 3, 1905, P. L. 379.

CHAPTER VI.

ARTICLE XV.

BRIDGES.

(a) GENERAL POWER AND PROCEDURE.

Section 1. Boroughs shall have power to construct bridges and the piers and abutments therefor, and in exercising such power shall have the right to take, use, and occupy private property.

Draft from Act of April 3, 1851, P. L. 320, and Section 8, Act of May 16, 1891, P. L. 75, as amended by Act of April 28, 1899, P. L. 100.

Westfield Borough v. Tioga County, 150 Pa. 152.

Section 2. Whenever in the construction of any bridge, pier, or abutment, private property is taken, injured or destroyed, the proceedings therefor and the proceedings for the ascertainment and assessment of damages and benefits incident thereto, shall be as provided in Chapter VI, Article II, of this act.

Draft from Section 1, Act of May 16, 1891, P. L. 75, as amended by Act of June 12, 1893, P. L. 459.

Section 3. Whenever in the laying out, opening, widening, extending, straightening or grading of streets it becomes necessary to build bridges, piers and abutments therefor, and to take, injure or destroy private property, the proceedings therefor and the proceedings for the ascertainment and assessment of damages and benefits inci-

dent thereto shall be, in the case of the opening, widening, extending or straightening streets, as provided in Chapter VI, Article IV, and in the case of grading streets, as provided in Chapter VI, Article VIII.

Westfield Borough v. Tioga County, 150 Pa. 152.

(b) BRIDGES OVER BOUNDARY STREAMS.

Section 4. Whenever a creek, over which a bridge may be necessary, shall be on the division line of a borough and other municipality or township, it shall be the duty of the borough to unite with such municipality or township in the construction and maintenance of such bridge, and to pay an equal share of the expenses incident thereto.

Draft from Section 34, Act of June 13, 1836, P. L. 551.
Borough of Gouldsborough v. Township of Coolbaugh, 87 Pa. 48.
Pottsville Borough v. Norwegian Township, 14 Pa. 543.
Trickett "Pennsylvania Borough Law" Page 209, Section 167.

(c) BRIDGES OVER RAILROADS.

Section 5. The several boroughs of this Commonwealth are hereby authorized to locate and build viaducts or bridges, to be used as public highways, over railroads, rivers, creeks, streams, and private property, or over and across railroads and any of them, or over and across railroads, whether the said viaducts or bridges be wholly within, or partly without and partly within, the borough limits. for the purpose of uniting two or more different streets or highways, or separate portions of the same highway or extension thereof: Provided, That the said viaducts or bridges must, in all cases, cross the aforesaid railroads; and that, in all cases, any viaduct or bridge shall be erected in the manner provided by existing laws for the erection of such viaducts or bridges in the several boroughs of this Commonwealth.

Section 1, Act of May 25, 1907, P. L. 240.

Section 6. The said boroughs shall have the right to enact ordinances providing for the laying out and opening of the routes or locations for said viaducts and bridges, which shall be public highways; and the proceedings for the said laying out and fixing locations and for the opening thereof shall be the same as is provided in Chapter six, Article four, except that in no case a petition of property owners shall be required therefor.

Section 2, Act of May 25, 1907, P. L. 240.

Section 7. In case the said respective borough has not agreed with the owner or owners for the damages done, or likely to be done, by the erection of said viaduct or bridge, it shall be lawful for the

said borough to take and appropriate the lands and property necessary, over and across which to erect said bridge or viaduct, and the damages and benefits caused by the said taking and appropriation shall be assessed by three free-holders as viewers, appointed by the court of common pleas, in the same manner and with like proceedings as provided in Chapter six, Article two.

Section 3, Act of May 25, 1907, P. L. 240.

Section 8. The said borough shall also have the power to enter into and unite in a contract or contracts with the county commissioners of the proper county, and also with railroads, street railways, and other companies, and parties interested, or with any or all of them, for the building, construction, and maintenance of said viaduct or bridges, or for certain parts or portions thereof, and for the payment of any damages caused by the location and the said erection.

Section 4, Act of May 25, 1907, P. L. 240.

Section 9. Nothing contained in the preceding section shall authorize a borough to contract with a county for the maintenance of such bridge or viaduct which does not cross a river, creek, stream or other place over which the county is authorized to build bridges. Such viaduct or bridge shall be maintained as a borough structure by the borough, and it is authorized to contract with any party interested except the county aforesaid for the maintenance of the same.

Draft made from part of Section 5, Act of May 25, 1907, P. L. 240.

Section 10. The contracts herein provided for may stipulate that the respective borough, county, railroad company, street railway, or other company, or parties interested, or any of them, shall pay a certain part or portion of the whole contract price or cost of the work, including damages; or may stipulate that each shall construct or pay for the construction of a certain part or portion of the work, and may otherwise provide for the payment of the damages. When any railroad company, street railway, or other company, or other parties interested, agree to pay a certain part or portion of the cost of the entire work, they shall pay such part or portion into the proper borough treasury; and upon said payment the borough treasurer shall be liable therefor, and he shall pay the same over to the contractors, as may be provided in the contract; but the amount to be paid by the respective county shall be paid directly to the contractor, as may be provided by the said contract. The said agreements may also provide for the maintenance of the said viaducts and bridges after their erection. All contracts shall be binding upon the parties thereto, their lessees, successors, heirs, and assigns.

Section 6, Act of May 25, 1907, P. L. 240.

Section 11. Whenever the borough, county commissioners, and the said railroad, street railway, and other companies, and others interested, or any of them, have entered into a contract or contracts for the construction of said bridge or viaduct, as is hereinbefore provided, it shall be lawful for the said borough in conjunction with the said county commissioners to have prepared plans or specifications of the entire work, and thereafter to advertise for bids, and to award the contract to the lowest responsible bidder. The contract for the said work shall provide that the county shall pay for its certain part of said bridge or viaduct, and the borough shall contract for the other part of the said work; but the said contract as to the borough's part thereof shall be based upon the appropriation made by the borough for the part of the work for which it had agreed to pay, and the remaining part of the contract price shall be based upon the amounts the other parties have agreed to pay; and the contractor shall have the right of action against each party uniting in said contract for the part thereof agreed to be paid by each party, respectively, as set forth in the contract or contracts in which all the parties unite as aforesaid.

Section 8, Act of May 25, 1907, P. L. 240.

Section 12. In case the county commissioners do not unite in any such contract as is hereinbefore provided for, it shall be lawful for the said borough to contract for the construction of the viaduct as aforesaid, and to pay for the entire work or to contract in the manner aforesaid with all or any other of the aforesaid parties for the said work. Plans and specifications shall be prepared and advertisement shall be made for bids by the borough, and the contract let in the manner hereinbefore provided.

Section 9, Act of May 25, 1907, P. L. 240.

Section 13. Any of the contracts hereinbefore provided for may be recorded in the recorder's office of the proper county in which the respective borough is situate, and such record shall be notice to all persons who might be affected thereby.

Section 10, Act of May 25, 1907, P. L. 240.

(d) CONDEMNATION OF TOLL BRIDGES.

Section 14. The several boroughs of this Commonwealth are authorized to purchase, condemn, maintain, and use any public toll-bridge crossing any river or stream within the limits of such borough; and may also enter into contracts as hereinafter provided, with the county commissioners of the proper county whereby said county shall pay a portion of the cost thereof.

Section 1, Act of March 24, 1909, P. L. 69, and Act of March 24, 1909, P. L. 67.

Section 15. In case the borough desires to obtain any such bridge, and is unable to agree with the owner or owners of the bridge upon the price to be paid therefor, any court of common pleas of the county wherein said bridge is located, or any law judge thereof in vacation, on application therefor by petition of said borough, shall appoint three discreet and disinterested persons as viewers; and appoint a time, not less than ten nor more than twenty days thereafter, when said viewers shall meet and inspect the said bridge and view the same, together with the approaches and appurtenances thereto.

Section 2, Act of March 24, 1909, P. L. 69.

Section 16. The said viewers, having been duly sworn or affirmed justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire, in pursuance of the provisions of this act, and having viewed the said bridge, together with the approaches and appurtenances thereto, shall hear all parties interested and their witnesses; and shall estimate and determine the damages for the property taken, and to whom the same is payable; and prepare a schedule thereof, and give notice to all parties interested of a time, not less than ten days thereafter, and of a place where they will meet and exhibit said schedule, and hear all objections thereto and evidence. Notice of the time and place of said meeting shall be given by personal service upon all parties in interest, or their attorneys of record. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages allowed and to whom the same is payable, and file therewith a plan showing the bridge, together with the approaches and appurtenances thereto.

Section 3, Act of March 24, 1909, P. L. 69.

Section 17. The viewers provided for in the foregoing sections may be appointed before, or at any time after, the entry, taking, or appropriation of the said bridge, together with the approaches and appurtenances thereto. The costs incurred in the proceedings aforesaid shall be defrayed by the municipality, and each of the viewers shall receive such compensation as may be fixed by the court.

Section 4, Act of March 24, 1909, P. L. 69.

Section 18. If the compensation to be paid for any bridge, which the borough desires to obtain, cannot be agreed upon between the owners thereof and such borough, and if the borough desires to take possession of such bridge, it shall be lawful for it to tender its bond as security to the owner or owners of such bridge,—the condition of which shall be that the said borough shall pay or cause to be paid such amount of damages as the owner or owners thereof shall be en-

titled to receive, after the same shall have been agreed upon by the parties, or awarded. In case the owner or owners of such bridge refuse or do not accept the said bond, the said borough shall give the owner or owners thereof written notice of the time when the same will be presented for approval; and may present said bond to a court of common pleas of the county wherein said bridge is located; and, when approved, the said bond shall be filed in court for the benefit of said owner or owners, and upon the approval of said bond said borough may enter upon, appropriate, take, hold, use, and control such bridge.

Section 5, Act of March 24, 1909, P. L. 69.

Section 19. Upon the report of said viewers, or any two of them being filed in said court, either party may within thirty days thereafter file exceptions to the same; and the court shall have power to confirm said report, or to modify, change, or otherwise correct the same, or refer the same back to the same or new viewers, with like power as to their report; or within thirty days from the filing of any report in court, or the final confirmation thereof, either party may appeal and demand a trial by jury; and either party may, within thirty days after final decree, have an appeal to the Superior or to the Supreme Court, according to law. Upon final confirmation, in any of the cases provided in this section, the award shall be a good and valid judgment against the said borough. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings, and may make all such orders as it may deem requisite.

Section 6, Act of March 24, 1909, P. L. 69.

Section 20. In case any borough shall discontinue any proceeding taken, providing for the appropriation or condemnation of any bridge, prior to the entry upon, taking, or appropriation thereof, and before judgment therein, the said borough shall not thereafter be liable to pay any damages which have been or might have been allowed; but all costs upon any proceeding had thereon shall be paid by it, together with any actual damage, loss, or injury sustained by reason of such proceedings; and such damage, loss, or injury shall be determined and fixed by the court in which the proceedings are pending.

Section 7, Act of March 24, 1909, P. L. 69.

Section 21. Said borough may also enter into and unite in a contract with the county commissioners of the county in which said bridge is located, upon such terms and conditions as may be agreed upon, for the purchase, appropriation, or condemnation of said bridge. The contract may stipulate that the respective borough and

county shall pay a certain part or portion of the whole purchase price or damages allowed by condemnation proceedings. The amounts to be paid by the county shall be paid into the borough treasury; and, upon said payment, the borough treasurer shall be liable therefor, and it shall be held and applied solely for the said purpose or purposes. The said agreements may also provide for and include provisions for the maintenance, repair, and building of the said bridge, after its purchase or condemnation by the said borough.

Section 8, Act of March 24, 1909, P. L. 69.

Section 22. Whenever any bridge shall be purchased or condemned, the borough shall control, maintain, and use the said bridge as a public bridge; but it shall have power to charge tolls or rentals, for the use thereof, from railway, telephone, and telegraph companies, and other persons making a use thereof for other than ordinary public foot and vehicle travel: Provided, That where contracts exist between such persons and the owners of the bridge, such contracts shall be preserved for the benefit of the borough and shall be assigned thereto.

Section 9, Act of March 24, 1909, P. L. 69.

CHAPTER VI.

ARTICLE XVI.

ELECTRIC WIRES.

Section 1. Within the police power of boroughs shall be included the right to define, by ordinance, a reasonable district within which all electric light wires, telephone and telegraph wires, shall be placed under ground, in conduits owned either by the borough or by corporations owning such wires, or by corporations organized for the purpose of laying such conduits and renting space therein.

Part of Section 1, Act of June 12, 1913, P. L. 488, amending Section 1, Act of April 28, 1903, P. L. 335.

Section 2. In all cases in which such conduits are owned by any private corporation, partnership, or individual, there shall be reserved to the borough, whether expressed in the ordinance or not, the right to regulate by ordinance the manner in which such conduit shall be used, and the terms and conditions and rate of rental to be

charged for space therein, and also the right to take such conduits, either by purchase, upon agreement of the owners thereof and the borough, or by condemnation proceedings; in which latter case the court of common pleas, or any judge thereof in vacation, shall, upon petition of the borough authorities, appoint a jury of three reputable citizens of the county, not residents of the borough, and the proceedings shall be the same as provided by law in the case of the condemnation of land by a railroad company.

Part of Section 1, Act of June 12, 1913, P. L. 488, amending Section 1, Act of April 28, 1903, P. L. 335.

Section 3. The borough authorities shall not have the power to surrender or barter away the rights herein reserved, either by ordinance or contract, or otherwise.

Part of Section 1, Act of June 12, 1913, P. L. 488, amending Section 1, Act of April 28, 1903, P. L. 335.

Section 4. The court of quarter sessions of the proper county shall have the right to review any ordinance passed in pursuance of this article, and to annul such ordinance if deemed to be unreasonable, upon appeal of any person, partnership or corporation interested: Provided, That such appeal be taken within thirty days from the approval and advertisement of such ordinance.

Section 2, Act of April 28, 1903, P. L. 335.

CHAPTER VI.

ARTICLE XVII.

WATER COURSES.

(a) WIDENING AND DEEPENING OF WATER COURSES AND THE ERECTION OF EMBANKMENTS.

Section 1. The burgess and town council of all boroughs are hereby authorized and empowered to widen and deepen all streams and water courses running through and within the same, and to erect such dykes and embankments along the same as shall be necessary to prevent the water therein from breaking through or overflowing

the banks thereof. And the burgess and councils thereof are hereby authorized and empowered, for such purposes, to enter upon private property on and along such streams and water courses.

Section 1, Act of June 8, 1891, P. L. 210.

Section 2. The burgess and council of said boroughs shall severally have full power and authority, within the limits of their respective boroughs, to enter upon any land or enclosure lying near such streams and water courses and to dig, gather and carry to the banks of said streams and water courses, any stones, timber, sand, earth and gravel found thereon which they may deem necessary for the purpose of making, maintaining and repairing the embankments along such streams and water courses, when the same cannot be obtained by contract at reasonable prices, doing no unnecessary damage to the owner or owners of said lands, and repairing any breaches of fences which they shall make.

Section 2, Act of June 8, 1891, P. L. 210.

Section 3. The burgess and council of any borough as aforesaid, are hereby authorized and empowered to use and appropriate for the payment of the cost of the work and material provided for in the preceding sections of this article, any moneys of the said boroughs applicable to the ordinary expense of making and maintaining the streets and bridges thereof.

Part of Section 3, Act of June 8, 1891, P. L. 210.

Section 4. Any person aggrieved or claiming to have suffered damage by reason of any ordinance of the burgess and council of any borough in this Commonwealth, passed in pursuance of the preceding sections of this article, may complain to the court of quarter sessions of the proper county, and thereupon proceedings in said court may be had to fix and determine said damages, and the rights of all parties interested, in the same manner and subject to the same conditions as is provided in Chapter VI, Article IV.

Part of Section 3, Act of June 8, 1891, P. L. 210.

(b) VACATION OR ALTERATION OF THE COURSE OR CHANNEL OF WATER COURSES.

Section 5. Whenever the burgess and town council of any borough shall deem it essential to the preservation of health, or to the interest and welfare of any borough, and the inhabitants thereof, to vacate, change, alter the course or channel of any creek, run or natural waterway, other than navigable streams, the said burgess and town council, shall have full power and authority, by ordinance duly passed, to vacate, change, alter or relocate the course or channel of any creek, run or natural waterway, other than navigable streams,

or any part thereof, within the limits of such borough and for this purpose to enter upon, condemn and take such property and materials as may be necessary to effect such change, alteration or relocation.

Part of Section 1, Act of April 28, 1899, P. L. 74.

Section 6. No ordinance for the vacation, changing, alteration or relocation of the course or channel of any creek, run or natural waterway shall be passed until notice thereof has been given by publication of the proposed ordinance, at length, for at least once a week for three consecutive weeks in at least one newspaper published in the county in which said borough is situate.

Part of Section 1, Act of April 28, 1899, P. L. 74.

Section 7. The borough or authorities of any borough may, at any time after the passage and approval of the proper ordinance, present a petition in any court of common pleas of the proper county, setting forth, at length, the nature and character of the vacation, change, alteration or relocation proposed in the course or channel of any such creek, run or natural waterway, together with a description of the proposed change or improvements; and praying the court to appoint three disinterested freeholders to ascertain the damages, costs and expenses resulting from the vacation, change, alteration or relocation of the course or channel of any such creek, run or natural waterway, and to fairly and ratably assess the said damages, costs and expenses, or so much thereof as said viewers may deem just and reasonable, upon the property benefited or affected by such vacation, change, alteration or relocation, and make report thereof to court, whereupon said court of common pleas, or any law judge thereof in vacation, shall appoint three disinterested freeholders as viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the line of the improvement and view the same and the premises affected thereby. Said viewers shall give notice of the time of their first meeting by posting hand bills upon the premises affected, at least ten days prior to such meeting, or by such other means as the court shall deem necessary and proper.

Section 2, Act of April 28, 1899, P. L. 74.

Section 8. Said viewers, having been duly sworn or affirmed, faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the costs and expenses and the damages for property taken, injured or

destroyed, to whom the same is payable; and having so estimated and determined the damages, together with the benefits as hereinafter mentioned, they shall prepare a schedule thereof, and give notice to all parties to whom damages are allowed, or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule and hear all exceptions thereto and evidence. Notice of the time and place of said meeting shall be given, by personal service, upon all parties allowed damages or assessed benefits, as shown upon such schedule.

Part of Section 3, Act of April 28, 1899, P. L. 74.

Section 9. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages, costs and expenses, and benefits allowed and assessed, in each case, and file therewith a plan, showing the improvements, the properties taken, injured or destroyed, and the properties benefited thereby.

Part of Section 3, Act of April 28, 1899, P. L. 74.

Section 10. When said report is filed, notice thereof shall be given by publication once a week for two weeks in a newspaper published in the county in which said borough is located, proof of publication of which shall be filed with the court at least five days before the confirmation of said report. Said notice shall state the date of filing of the report, and shall contain a schedule of the damages and benefits as shown therein, and shall further state that, unless exceptions thereto be filed within thirty days from the date of filing, the said report will be confirmed absolutely.

Part of Section 3, Act of April 28, 1899, P. L. 74.

Section 11. The payment of damages sustained by the changes in the course or channel of any creek, run or natural waterway may be made, either in whole or in part, by the borough, or in whole or in part, by assessment upon the property benefited by such improvements, as said viewers may determine and the court approve; and, in the latter case, the viewers appointed to assess damages, having first estimated and determined the same, together with the costs and expenses thereof apart from benefits, shall also assess the said damages, costs and expenses, or so much thereof as they may deem just and reasonable, upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for which damages have been allowed, if in their judgment such properties shall be benefited thereby, and shall report the same to the said court. The total assessment for benefits, shall not exceed the total damages and cost of such change or improvement.

Section 4, Act of April 28, 1899, P. L. 74.

Section 12. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry, taking, appropriation or injury of any property or material for constructing said improvement, or making such changes or alterations, as herein provided for. The costs of the viewers and all court costs, incurred in the proceedings aforesaid, shall be defrayed by the borough and each of said viewers shall be entitled to a sum not to exceed three dollars ($3) per day for every day necessarily employed in performance of the duties herein prescribed.

Section 5, Act of April 28, 1899, P. L. 74.

Section 13. In all cases where the parties have not agreed upon the amount of damages claimed, or where, by reason of the absence or legal incapacity of the owner or owners, no such agreement can be made for the lands, property or materials to be taken, occupied or injured, the borough may tender sufficient security to the party claiming or entitled to any damages, or to the attorney or agent of any person absent, or to the agent or other officer of a corporation, or committee of any one under legal incapacity, the condition of which shall be that the said borough shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties or assessed in the manner provided for.

Part of Section 6, Act of April 28, 1899, P. L. 74.

Section 14. In case the party or parties claiming damages refuse or do not accept the security so tendered, the borough shall them give the party, his or their agent, attorney, guardian or committee, written notice of the time when the same will be presented for filing in the court, and thereafter the said borough may present said security to the court of common pleas of the county wherein the lands or other property are situated, and, if approved, the security shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages assessed, if the same be not paid, or cannot be made by execution on the judgment in the issue formed to try the question, and upon the approval of said security, said borough may proceed with the improvement.

Part of Section 6, Act of April 28, 1899, P. L. 74.

Section 15. Upon the report of the said viewers, or any two of them, being filed in said court any party may, within thirty days thereafter, file exceptions the same, and the court shall have power to confirm said report, or to modify, change or otherwise correct same, or change the assessment made therein, or refer the same back to the same or new viewers, with like power as to their report; or, within thirty days from the filing of any report in court, any party

whose property is taken, injured, damaged or destroyed may appeal and demand a trial by jury, and any party interested in any assessment of damages or benefits may, within thirty days after the final decree, have an appeal to the Supreme or Superior Court. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceeding, and may make all such orders as it may deem requisite.

Section 7, Act of April 28, 1899, P. L. 74.

Section 16. In case any borough shall repeal any ordinance passed, or discontinue any proceeding taken, providing for any of the changes or alterations provided for, prior to the entry upon, taking, appropriation or injury to any property or materials, and within thirty days after the filing of the report of the viewers assessing damages and benefits, the said borough shall not thereafter be liable to pay any damages which have been or might have been assessed, but all costs upon any proceeding had thereon shall be paid by said borough together with any actual damage, loss or injury sustained by reason of such proceedings.

Section 8, Act of April 28, 1899, P. L. 74.

Section 17. When the court has made its final decree, confirming said report or fixing the assessments in each case, the assessments of benefits shall become and be liens upon the property assessed, and a claim shall be filed and collected in the same manner as municipal claims are filed and collected, or the assessment may be collected by action of assumpsit; the lien of the judgment, however, to be limited to the property assessed.

Section 9, Act of April 28, 1899, P. L. 74.

Section 18. Nothing contained in Section five of this article or in the section predicated thereon, shall apply to any creek, run or natural waterway used by any municipality or water company as a source of supply, in whole or in part, for water, unless such municipality or water company shall consent and agree to the vacation, change, alteration and relocation of the course or channel of such creek, run or waterway.

Section 10, Act of April 28, 1899, P. L. 74.

(c) POWER TO CONFINE AND PAVE WATER COURSES.

Section 19. Whenever the burgess and town council of any borough within this Commonwealth shall receive a written request from the board of health to confine and pave, or completely enclose, any creek, run or natural waterway, other than navigable streams, and

shall deem it essential to the preservation of health or to the interest and welfare of the borough and the inhabitants thereof to do so, the said burgess and town council shall have full power and authority, by ordinance duly passed, to confine and pave or completely enclose any creek, run or natural waterway other than navigable streams, or any part thereof within the limits of said borough, and for this purpose to enter upon and condemn and take such property and materials as may be necessary to complete the work of confining and paving or complete enclosures.

Part of Section 1, Act of July 10, 1901, P. L. 634.

Section 20. No ordinance for the confining and paving or complete enclosure of any such creek, run or natural waterway shall be passed, until notice thereof has been given, by publication of the proposed ordinance at length, for at least once a week for three consecutive weeks, in at least one newspaper published in the county in which said borough is situate.

Part of Section 1, Act of July 10, 1901, P. L. 634.

Section 21. When the work of confining and paving or complete enclosure of any creek, run or natural waterway, other than navigable streams, has been completed as specified in the ordinance, if the borough cannot agree with the property holders on the division of the costs and expenses, the borough may present its petition in any court of common pleas of the proper county, setting forth briefly the character of such improvements, and that the cost, expenses and damages incurred have not been collected or fully paid to said borough, and praying the court to appoint three disinterested freeholders as viewers, to ascertain the damages, costs and expenses resulting from the confining and paving or the complete enclosure of any such creek, run or natural waterway, and to fairly and ratably assess the said damages, costs and expenses, or so much thereof as said viewers may deem just and reasonable, upon the property benefited or affected by such confining and paving or complete enclosure, and make report thereof to court; whereupon said court of common pleas, or any law judge thereof in vacation, shall appoint three disinterested freeholders as viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the line of the improvement and view the same and the premises affected thereby. Said viewers shall give at least ten days' notice of their first meeting, by publication in one of the newspapers published in the county in which said borough is situate, and by posting hand bills upon the premises affected, or by such other means as the court shall deem necessary and proper.

Section 2, Act of July 10, 1901, P. L. 634.

Section 22. Said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, and in relation to which they are authorized to inquire in pursuance to the provisions of this act, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses, and shall estimate and determine the costs and expenses of the improvement and the damages for property taken, injured or destroyed, to whom the same is payable; and, having so estimated and determined the damages, together with the benefits as hereinafter mentioned, they shall prepare a schedule thereof, and give notice to all parties, to whom damages are allowed or upon whom assessments for benefits are made, of a time, not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule and hear all exceptions thereto and evidence. Notice of the time and place of said meeting shall be given, by personal service upon all parties allowed damages or assessed benefits as shown upon said schedule, if resident in the borough, and to all others by publication in a newspaper as provided in the preceding section.

Part of Section 3, Act of July 10, 1901, P. L. 634.

Section 23. After making whatever changes are deemed necessary, the said viewers shall report to the court, showing the damages and benefits assessed in each case, and file therewith a plan showing the improvement, the properties taken, injured or destroyed, and the properties benefited thereby.

Part of Section 3, Act of July 10, 1901, P. L. 634.

Section 24. When said report is filed, notice thereof shall be given by publication once in the newspaper, or publishing the notice provided for in Section twenty-one of this article. Said notice shall state the date of filing the report, and shall contain a schedule of the damages and benefits shown therein, and shall further state that unless exceptions thereto be filed within thirty days from the date of filing, the said report will be confirmed absolutely.

Part of Section 3, Act of July 10, 1901, P. L. 634.

Section 25. The cost of the improvement, including the payment of damages sustained by the making of the improvements aforesaid, may be borne either in whole or in part by the borough, or in whole or in part by assessment upon the property benefited by such improvements, as said viewers may determine and the court approve; and in the latter case, the viewers appointed to assess damage, having first estimated and determined the same apart from benefits shall also assess the said damage, or so much thereof, as they may deem just and reasonable, upon the properties peculiarly benefited by the improvement, including in the said assessment all properties for

which damages have been allowed, if in their judgment such properties will be benefited thereby, and shall report the same to the said court.

Section 4, Act of July 10, 1901, P. L. 634.

Section 26. The costs of the viewers and all court costs incurred in the proceedings aforesaid shall be defrayed by the said borough, and each of the said viewers shall be entitled to a sum of three dollars ($3.00) per day for every day necessarily employed in performance of the duties herein prescribed.

Section 5, Act of July 10, 1901, P. L. 634.

Section 27. Upon the report of said viewers or any two of them being filed in said court, any party may, within thirty days thereafter, file exceptions to the same; and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or change the assessments made therein, or refer the same back to the same or new viewers, with like power as to their report. Or within thirty days from the filing of any report in court, any party whose property is taken, injured or destroyed may appeal and demand a trial by jury; and any party interested in any assessment of damages or benefits may, within thirty days after final decree, have an appeal to the higher courts. The said court of common pleas shall have power to order what notices shall be given in connection with any of the said proceedings, and may make all such orders as it may deem requisite.

Section 6, Act of July 10, 1901, P. L. 634.

Section 28. The final assessments made on any property or properties, to pay for the costs, expenses and damages, or either, of the improvements, shall be a lien for the amount of such assessment upon the properties so assessed, dating from the time of the final confirmation of the report under which said assessment was made, or the final decree of the court fixing such assessment, and shall, if filed within six months from said final assessment and confirmation, remain a lien upon said properties until fully paid and satisfied: Provided, That a writ of scire facias shall be issued to revive the same at the expiration of every period of five years after the lien is filed.

Section 7, Act of July 10, 1901, P. L. 634.

Section 29. Nothing in Section nineteen of this article or in the sections predicated thereon contained shall apply to any creek, run or natural waterway now or hereafter used by any borough or water company as a source of supply, in whole or in part, for water unless such borough or water company shall consent and agree to the confining and paving or complete enclosure of such creek, run or natural waterway.

Section 8, Act of July 10, 1901, P. L. 634.

CHAPTER VI.

ARTICLE XVIII.

PUBLIC SERVICE.

(a) WATER SUPPLY AND WATER WORKS.

Section 1. Every borough of this Commonwealth shall have power and authority to provide a supply of water for the use of the public within such borough, either by erecting and operating water-works or by entering into a contract or contracts with one or more persons or corporations authorized to supply water within the limits of said borough, or partly by the erection and operation of water-works and partly by entering into a contract or contracts, as aforesaid.

Section 1, Act of May 3, 1901, P. L. 140.

Section 2. No contract for the supply of water hereafter entered into by any borough with any person, persons or corporations, shall in any wise affect or abridge the power of said borough to construct and operate water-works as hereinbefore provided, but such power shall remain in full force and effect as though such contract had not been made.

Section 2, Act of May 3, 1901, P. L. 140.
Potter Co. Water Co. v. Austin Boro, 206 Pa. 297.

Section 3. Any borough desiring to erect water-works, or to improve its water supply, may, for such purpose, appropriate springs, streams, known as rivers or creeks, lands, easements, and rights of way, whether within its territorial limits or not; and, for the purpose of conducting water obtained outside of the territorial limits of any borough, may lay pipes across, under, and over lands, rivers, streams, bridges, public highways, and cross railroads: Provided, That no waters or springs, appropriated under the provisions of this section, shall be used in such manner as to deprive the owner or proprietor thereof of the free use of and enjoyment of the same, at all times, for any domestic, dairy, stock, or farm purposes.

Section 1, Act of April 15, 1907, P. L. 90, amending Sectlon 1, Act of May 25, 1887, P. L. 267.

Section 4. Prior to any appropriation as provided in the preceding section, the borough shall attempt to agree with the owner as to the damage done or likely to be done to him. If the parties

cannot agree, or the owner cannot be found, or is not sui juris, the borough may file its bond in the common pleas court of the county, conditioned for the payment, to the owner of the property appropriated, of the damages for the taking thereof, when the same shall have been ascertained according to law. Upon the approval of the bond, and its being filed, the right of the corporation to enter upon the property or rights intended to be appropriated shall be complete. Upon petition of either the property owner or borough, at any time thereafter, the said court shall appoint three disinterested freeholders of the county to serve as viewers, to assess the damages proper to be paid to the owner for the property or rights appropriated, and shall fix a time for their meeting, of which notice shall be given to both parties. When the report is filed either party may appeal and have a jury trial.

Section 1, Act of June 19, 1911, P. L. 1033, amending Section 2, Act of May 25, 1887, P. L. 267.

Section 5. The several boroughs of this Commonwealth desirous of owning and operating the water-works, plants, or system for the supplying of water to any such borough, and the inhabitants thereof, which water-works, plants, or system is owned by a private corporation, firm, or individual, may petition the court of common pleas of the proper county, setting forth that the said borough is desirous of owning said water plant or system, owned by such corporation, firm, or individual, and that it will be necessary, in order to make payments therefor, to issue bonds, secured by such plant or system of water-works, and that therefore a value should be placed upon such water-works, plant, or system, including all property, real or personal, used in connection therewith and reasonably necessary for its purposes.

Section 1, Act of May 31, 1907, P. L. 355.

Section 6. The said court shall thereupon appoint three disinterested civil engineers as appraisers, to value and appraise such plant or system and the property used in connection therewith and reasonably necessary for its purposes, who shall file their report in the office of the prothonotary of the proper court within three months after their appointment, unless such time be extended by the court.

Section 2, Act of May 31, 1907, P. L. 355.

Section 7. The appraisers so appointed shall have full access to the books and records of the private corporation, firm, or individual owning said water-works or system, to inform themselves as to the income and value thereof. They shall have power to administer oaths, and are hereby authorized to hear and consider the testimony of witnesses and other legal proofs. Their report shall be final, if

not appealed from within ten days after notice of the filing thereof, shall have been served on the burgess of the borough, and upon the corporation, firm, or individual owning the water-works. Within said ten days either party may appeal from such appraisement, alleging an under or over valuation of the property thereby, and praying for a hearing before the court; and the said court shall thereupon, upon application of either party, fix a time when said appeal may be heard, of which time at least ten days' notice shall be given to the parties; and upon such hearing the court shall have power, after hearing legal proofs and arguments, to increase or lower such appraisement, or otherwise, and modify the same as the facts may warrant, subject, however, to the right of appeal by either party to the proper appellate court, as in other cases in equity.

Section 3, Act of May 31, 1907, P. L. 355.

Section 8. After such value is finally determined, the borough is authorized to buy said water plant at the valuation so fixed and determined; and the said corporation, firm, or individual, owning same, shall, within ten days' notice of such determination, and a request by the borough so to do, file in said court a paper indicating its consent and election to sell and convey its plant, system, and property, so appraised, to the borough, at the valuation fixed as aforesaid; and, in default whereof, such corporation, firm, or individual shall cease to have any exclusive privilege of supplying said borough, or the citizens thereof, with water, and said borough may install or cause to be installed such plant or system as the authorities may deem necessary and expedient for the accommodation of the public.

Section 4, Act of May 31, 1907, P. L. 355.

Section 9. For the purpose of said purchase the borough may issue bonds, which shall be secured solely by such water-works, systems, and property, and the revenues thereof, and without other liability whatever of said borough thereon, to an amount not exceeding the appraisement of the value fixed by said appraisers or the court. The proceeds of the sale of such bonds shall be used exclusively for the purpose of making payment for the property so acquired.

Section 1, Act of April 22, 1909, P. L. 135, amending Section 5, Act of May 31, 1907, P. L. 355.

Section 10. The borough shall provide an adequate sinking fund for the receipts and revenues derived from said water-works or systems, for the payment of the interest on such bonds and for their redemption. The bonds shall be payable within thirty years from

the date of their issue, and shall be redeemable at such earlier period as the borough may by ordinance provide, and shall bear interest at a rate to be fixed by the borough not exceeding six per centum per annum. The bonds shall be exempt from taxation for any purpose.

Section 2, Act of April 22, 1909, P. L. 135, amending Section 6, Act of May 31, 1907, P. L. 355.

Section 11. Should there be, at the time of the passage of this act, a contract or agreement, in writing, existing between any corporation, firm, or individual owning the water plant or system, and a borough then being supplied with water by such corporation, firm or individual dated prior to May thirty-first, one thousand nine hundred and seven, establishing or adjusting or fixing the manner in which such water plant or system may be appraised, purchased, or acquired, then, and in that case, appraisers shall be selected, and the appraisement made in accordance with the terms of such contract, and to the respective parties to such contract shall, in lieu of the preceding provisions of this act, carry out the terms of said contract in arriving at the value of said water plant or system.

Section 7, Act of May 31, 1907, P. L. 355.

Section 12. Two or more boroughs may unite or any borough may unite with a township in the construction or acquisition and maintenance of works for the supply of water to such boroughs or townships.

Section 1, June 1, 1911, P. L. 541.

Section 13. The construction of water-works, as provided for in the preceding section shall be after plans for such water-works have been filed with the Commissioner of Health, and a permit issued by him in accordance with the act of Assembly of April twenty-second, one thousand nine hundred and five, entitled "An act to preserve the purity of the waters of the State for the protection of the public health."

Section 2, June 1, 1911, P. L. 541.

Section 14. In all boroughs, where authority is given to construct and provide water-works, and where the qualified voters are given the right to determine by vote the expediency of constructing said works, the corporate authorities thereof are directed and required, whenever the question of said expediency has been or shall be submitted to a vote, at a special election called for that purpose, and has been, or shall be determined in favor of such expediency, and the construc-

tion of said works has not been, or shall not be commenced within four years after holding said special election, to order another election to determine by vote the expediency of constructing such works.

Section 1, Act of June 24, 1885, P. L. 163.

Section 15. Where the construction of said works has not been commenced within four years as provided by the preceding section of this act, such works shall not thereafter be constructed by any borough or boroughs, until the expediency thereof has been determined by another election.

Section 2, Act of June 24, 1885, P. L. 163.

Section 16. The proper authorities of any borough of this Commonwealth, owning or controlling water-works for the supply of water to the inhabitants of said borough, whenever the schedule of water rents shall have been fixed or limited by general or special act of Assembly, shall be and are hereby authorized to change the rates or schedule of rents, from time to time, so that the same shall not, at any time, exceed the rates now limited.

Section 1, Act of May 24, 1870, P. L. 118.

Section 17. Councils of boroughs within this Commonwealth are authorized and empowered to receive bids from any and all incorporated water companies, authorized to do business within such borough for a supply of water for fire protection and for other municipal purposes, and to contract therefor with such company offering terms which to said council shall seem most advantageous to said borough.

Section 1, Act of May 2. 1901, P. L. 137.

Section 18. Whenever any borough of this Commonwealth has erected and is maintaining water-works for supplying water within the limits of such borough, it shall and may be lawful for the authorities of any such borough, whenever they may deem it advisable so to do, to supply and to make contracts, for supplying water for ordinary and domestic uses to corporations, property owners, lessees or occupants outside the limits of such borough, at water rates not less than those required to be paid by property owners within the limits of such borough: Provided, That nothing herein contained shall conflict with the corporate rights of any water company, or of the rights of the municipal authorities of any other borough.

Section 1, Act of June 10, 1885, P. L. 81.

Section 19. Whenever any borough in this Commonwealth shall supply water to the public, and shall have found, or shall find, it necessary, in storing water, to occupy and flow with water portions

of any turnpike or any public road in this Commonwealth, or where any public road now leads into, crosses over or through any reservoir used for the storing of water, the said borough shall cause the same to be reconstructed forthwith, at its own proper expense, on a favorable location and in as perfect a manner as the original road, and for such purpose are authorized to condemn land for that purpose whenever an agreement as to price cannot be had with the owners. And after such change is made, such borough, shall file in the court of quarter sessions of the proper county a map or plan showing such change of road, and shall furnish to the supervisors or other public authorities of the township or municipal corporation a copy of such map and the changes made.

Section 1, Act of May 7, 1907, P. L. 167.

Section 20. Any such borough shall be and is hereby empowered to acquire and hold, by purchase or condemnation, such lands, along and contiguous to the streams of water or reservoirs from which water is taken for public use, as may be necessary to preserve them from contamination: Provided, That no land shall be taken for the uses mentioned in the preceding section until just compensation shall have been made for property taken, injured, or destroyed, which shall be paid or secured before such taking, injury or destruction.

Section 2, Act of May 7, 1907, P. L. 167.

Section 21. The damages incurred in changing the location of any turnpike or public road, shall be ascertained and paid by such borough, in the same manner as is provided for in Chapter VI, Article II, of this act.

Section 3, Act of May 7, 1907, P. L. 167.

Section 22. Complaint may be made to the next court of quarter sessions of the proper county upon entering into recognizance, with sufficient security according to law to prosecute the same with effect, and for the payment of costs, by any person aggrieved in consequence of any ordinance, regulation or act done, or purporting to be done, in virtue of the preceding sections of this article, and the determination and order of the said court thereon shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending Section 27, Clause 2, Act of April 3, 1851, P. L. 320.

Millvale Boro., 14 Pa. C. C. 79.

Section 23. Upon the complaint of any person or persons aggrieved as provided in the preceding section, the said court shall

take such order as may be just and reasonable, and the final order of the said court shall be conclusive.

Section 2, Act of May 22, 1883, P. L. 39, amending part of Section 27, Clause 3, Act of April 3, 1851, P. L. 320.

Millvale Boro., 14 Pa. C. C. 79.

Section 24. In boroughs of this Commonwealth, owning and maintaining water-works, or which shall hereafter acquire and maintain water-works, there may be established a Commission of Water-works, to be composed of three citizens of said borough, who shall be known as commissioners of water-works.

Section 1, Act of June 5, 1913, P. L. 445.

Section 25. Any borough within this Commonwealth, desiring to avail itself of the provisions of this act, shall, by resolution duly passed by council and recorded in its minutes, apply to the court of common pleas of the proper county for the appointment of commissioners of water-works.

Section 2, Act of June 5, 1913, P. L. 445.

Section 26. It shall be the duty of the judges of the court of common pleas, upon application of any borough council, as aforesaid, to appoint such commissioners of water-works, one of whom shall be appointed to serve for one year, one for two years, and one for three years; and annually thereafter the judges of said court shall appoint one citizen to serve as a commissioner of water-works, for a term of three years. In case of a vacancy the said court shall fill the same for the unexpired term thereof. Such commissioners of water-works shall not receive salary for their services, but shall be paid all such sums necessarily expended in the performance of their duty: Provided, however, That after three years from the first appointment under this act, the borough or town council may at any time rescind the resolution asking for the appointment of a commissioner of water-works. When such resolution shall be so rescinded the court shall make no further appointment of commissioner of water-works until a resolution shall again be passed by council asking for such appointment.

Section 3, Act of June 5, 1913, P. L. 445.

Section 27. It shall be the duty of the commissioners of water-works in each borough of the Commonwealth, where a commission of water-works is established, to meet within ten days after their appointment, and annually thereafter, and organize by electing a president and secretary.

Section 4, Act of June 5, 1913, P. L. 445.

Section 28. It shall be the duty of said commissioners, after having duly organized, to take full charge and control of the water-works of such borough. Said commissioners shall have power to appoint all necessary officers and agents, and take from them, respectively, such security for the faithful performance of their duty, as they shall deem proper; and to fix the salaries and wages of such officers and agents; to provide for the repair, extension, improvement, and maintenance of said water-works, and the erection of new water-works; to collect water-rents and to make and establish the rates, terms, and conditions upon which water will be furnished to applicants therefor; and to make by-laws, rules, and regulations for the economical and efficient management and protection of said water-works.

Section 5, Act of June 5, 1913, P. L. 445.

Section 29. The council of any borough within this Commonwealth may, upon request of the commissioners of water-works, issue bonds for the extension of water-works or the erection of new water-works. Said bonds shall be issued in the form and manner now provided for by law, and shall be designated "water-works bonds." They shall be delivered to said commissioners, from time to time, upon their requisition, after the commencement of the work for the payment of which such bonds were issued. Each such requisition shall be accompanied by a detailed statement of the work done and materials purchased. Said bonds shall not be sold for less than par and the proceeds thereof shall be applied to the purposes for which said bonds were issued, and no other.

Section 6, Act of June 5, 1913, P. L. 445.

Section 30. The said commissioners shall prepare plans and specifications of all work to be performed and materials necessary for the repair, maintenance, and extension of such water-works, or the erection of new water-works; and shall, after plans and specifications for the extension of water-works or the erection of new water-works have been submitted to and approved by the Department of Health, in accordance with the provisions of an act of Assembly, approved the twenty-second day of April, one thousand nine hundred and five, entitled "An act to preserve the purity of the waters of the State, for the protection of the public health," and a permit granted therefor by the Commissioner of Health,—by due public notice, invite proposals for the performing of such work and the furnishing of such materials; and shall, in all cases, let the contracts therefor to the lowest responsible bidder, and shall take adequate security for the performance of such contracts.

Section 7, Act of June 5, 1913, P. L. 445

Section 31. Said commissioners shall make a monthly report to the council of the borough of the receipts and disbursements during the preceding month; and annually make a detailed report of the condition of said water-works, which shall be published by the council of said borough for the information of the public. Said commissioners shall cause all moneys collected to be deposited weekly by the collectors with the borough treasurer, who shall return a receipt therefor to the said commissioners. All moneys so collected shall be kept in a separate fund, and shall be used for the purpose of repairing, maintaining, and extending said water-works, the erection of new water-works, or the payment of any indebtedness on said waterworks, and for no other purpose. No money shall be drawn from said fund except upon order countersigned by the president and secretary of said commission.

Section 8, Act of June 5, 1913, P. L. 445.

Section 32. All by-laws, rules and regulations, not inconsistent with the laws of the Commonwealth, the rules and regulations of the Department of Health or the Water Supply Commission, when made by said commissioners, shall have the force and effect of ordinances of said borough, and the penalties imposed thereby shall be collected in the same manner as penalties imposed by borough ordinances are collected.

Section 9, Act of June 5, 1913, P. L. 445.

Section 33. Whenever two or more boroughs, or any borough and township, having united in the construction or acquisition and maintenance of water-works, or hereafter uniting for the purpose of constructing or acquiring and maintaining water-works, desire to avail themselves of the provision of this act, so far as relates to commissioners of water-works, the councils of such boroughs may join with the commissioners or supervisors of such townships after ordinance duly passed and apply to the court of common pleas of the proper county for the appointment of a commission of water-works in accordance with section twenty-five of this article. Said commission shall be composed of citizens of each of said boroughs and townships so uniting.

Section 10, Act of June 5, 1913, P. L. 445.

(b) MANUFACTURE AND SUPPLY OF ELECTRICITY.

Section 34. Boroughs shall have the right to manufacture electricity for commercial purposes for the supply and use of the inhabitants of said boroughs, and may introduce the arc or incandescent electric light or any other form or style of electricity that may be deemed most expedient and desirable, and said boroughs may enact such ordinances as may be proper and necessary to intro-

duce and supply the inhabitants of said boroughs who may desire to use the said electricity in their dwelling-houses, store-rooms and other places in said boroughs, and regulate by ordinances the price to be charged for the same.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 35. In all boroughs desiring to furnish electric lights, where electric light companies organized under laws of this Commonwealth are already furnishing electric lights to such borough or the public, such borough shall endeavor, and is hereby authorized and empowered to purchase the works of such corporation at such price as may be agreed upon by councils of said boroughs and a majority in value of the stockholders of such corporation.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 36. In case of failure so to agree, such borough may present a petition to the court of common pleas of the county in which such borough is located, asking for the appointment of viewers to assess the value of the plant and works so taken; whereupon the court shall appoint three discreet and disinterested freeholders of said county, neither of whom shall be stockholders in said corporation or tax-payers in said borough, and shall appoint a time for their meeting, of which meeting ten days' notice shall be given to all parties in interest.

Part of Section 1, Act of May 20, 1891, P. L. 90, as supplied by Act of June 23, 1911, P. L. 1123.

Section 37. The said viewers having first been duly sworn or affirmed, faithfully, justly and impartially to appraise said property, and having viewed the premises and taken such testimony as may be offered by either party touching the value of said property and franchises, they shall estimate and determine what amount of damage has been or may be sustained by such corporation, and to whom payable, and make report thereof to the said court, which report having been confirmed by the said court, judgment shall be entered thereon.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 38. Each of said viewers shall be entitled to receive two dollars for each day necessarily employed in the performance of the duties herein prescribed.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 39. Either party may at any time, within thirty days after the confirmation of such report, appeal therefrom to the said court.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 40. After such appeal either party may put the cause at issue in the form directed by said court, and the same shall then be tried by said court and a jury, and after final judgment either party may have an appeal to the supreme court in the manner prescribed in other cases.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 41. The court shall have power to order what notices shall be given in connection with any part of the proceedings, and may make all such orders connected with the same as may be deemed requisite.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 42. If any exceptions be filed with any appeal to the proceedings, they shall be speedily disposed of, and if allowed, a new view shall be ordered, and if disallowed, the appeal shall proceed as before provided.

Part of Section 1, Act of May 20, 1891, P. L. 90.

Section 43. Before any debt shall be contracted or incurred by any borough for the manufacture of electricity for the purposes mentioned and specified in the preceding sections of this article, the question of the right to increase the debt of said boroughs for said purposes shall first be submitted to the qualified voters of said boroughs, in the manner now provided by law for the increase of the indebtedness of municipal corporations in this Commonwealth.

Section 2, Act of May 20, 1891, P. L. 90.

CHAPTER VI.

ARTICLE XIX.

PUBLIC BUILDINGS AND WORKS.

(a) PUBLIC BUILDINGS.

Section 1. All boroughs shall have the power to acquire, enter upon, take, use, and appropriate private property, and also land heretofore granted or dedicated to public use which is no longer used for the purpose for which the same was granted or dedicated, for the erection thereon of town hall, hose-house, lockup, filter plant, and such other public buildings and works as are necessary for pub-

lic municipal purposes within the corporate limits of such borough, whenever the council thereof shall, by ordinance, determine thereon; the compensation and damages arising from such taking, using, and appropriating of private property, for the purposes aforesaid, shall be considered, ascertained, determined, awarded, and paid in the manner hereinafter provided: Provided, That no land or property belonging to or used for any cemetery, burying ground, or place of public workship shall be taken or appropriated, in any manner, under and by virtue of the provisions of this article.

Section 1, Acts of June 1, 1907, P. L. 365, and April 15, 1913, P. L. 66, amending Section 1, Act of June 10, 1901, P. L. 555.

Mercersburg College, 53 Sup. Ct. 388.

Section 2. If the compensation and damages arising from such taking, using and appropriating of private property, for the purposes aforesaid, cannot be agreed upon by the owners thereof and such borough, it shall be lawful for such borough to tender its bond as security to the party claiming or entitled to any damages, or to the attorney or agent of any absent person, or to the agent or other officers of a corporation, or to the guardian or committee of any person under legal incapacity; the condition of which shall be, that the said borough shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon or assessed.

Part of Section 2, Act of June 10, 1901, P. L. 555.

Section 3. In case the party or parties claiming damages refuse or do not accept the security so tendered, the said borough shall then give the party, his or their agent, attorney, guardian or committee, at least ten days' written notice of the time when the same will be presented in any court of common pleas of the county in which the land so to be acquired, taken, used or appropriated is situate for approval; and thereafter the said borough may present its bond to said court of common pleas, and, when approved, the said bond shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages ascertained or finally determined, if the same be not paid, by execution on the judgment in the issue formed to try the question; and upon the approval of said security, said borough may enter into possession, take, hold, use and enjoy said land, for the purposes aforesaid, forever.

Part of Section 2, Act of June 10, 1901, P. L. 555.

Section 4. Whenever the borough authorities shall desire to take any lands heretofore granted or dedicated to a use or purpose for which the same are no longer used, they shall pass an ordinance

declaring such intention, and they shall thereupon petition the court of common pleas of the county in which such lands are situate for leave to file the bond of such borough, for the purpose of securing any person or persons who may be injured by the taking of such lands; and the said court shall thereupon direct such notice to be given, by publication in at least two newspapers of the county in which such lands are situate, as to the said court shall seem proper, and if no exceptions are filed to the said bond on or before the day fixed in said notice, the court shall approve the said bond. The said court shall have power to increase the amount of said bond, and to hear and determine all exceptions that may be filed against the approval thereof. Upon the approval of such bond, the said municipal authorities shall have the right to enter upon and take such lands, and the said bond, which shall be in the name of the Commonwealth, for the use of any person or persons who may be legally entitled to damage by reason of the taking of the said lands, shall remain on file for their use and benefit.

Section 3, Act of June 10, 1901, P. L. 555.

Section 5. In case the compensation for damages accruing from such appropriation has not been agreed upon by the parties in interest, any court of common pleas of the proper county, as aforesaid, or any law judge thereof in vacation, on application thereto by said borough or any person interested in such land and property, shall appoint three discreet and disinterested freeholders as viewers, and appoint a time, not less than ten nor more than twenty days thereafter, when said viewers shall meet upon the property and view the same and the premises affected thereby. The said viewers shall give at least five days' personal notice of the time of their first meeting, upon the owners, agents, attorneys, or representatives thereof if the same reside within the county in which such borough is located; otherwise, by handbills posted upon the premises, or by such other notice as the court shall direct. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, in relation to which they are authorized to inquire, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses; and, having due regard to the advantages and disadvantages shall estimate and determine the damages for the property taken, used or appropriated, and to whom the same are payable; they shall give at least ten days' notice thereof, to all parties interested, of the time and place when said viewers will meet and exhibit said report and hear any exceptions thereto. After making whatever changes are deemed necessary and proper, the said viewers shall make a report to the court,

showing the damages if any allowed, and file therewith a plan showing the properties acquired, taken, used and appropriated, and the names of the persons to whom such damages are payable.

Section 4, Act of June 10, 1901, P. L. 555.

Section 6. Upon the report of said viewers, or any two of them, being filed in said court, any party may within thirty days thereafter file exceptions to the same, and the court shall have power to confirm said report, or to modify, change or otherwise correct the same, or refer the same back to the same or new viewers, with like power as to their report. Or within thirty days from the filing of any report in court, any party whose property is so acquired, taken, used or appropriated, may appeal to the court of common pleas of said county and demand a trial by jury; and any party interested therein may, within thirty days after final decree, have an appeal to the superior or the supreme court. If no exceptions are filed or no demand made for trial by jury, within the said thirty days after the filing of said report, the same shall become absolute. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings and may make all such orders as it may deem requisite.

Section 5, Act of June 10, 1901, P. L. 555.

Section 7. The viewers, may be appointed before or at any time after the entry, taking or appropriation of any property to be used for the purpose aforesaid. They shall have power to administer oaths, and adjourn their hearings from day to day as they may find necessary.

Section 6, Act of June 10, 1901, P. L. 555.

Section 8. The costs of the viewers and all court costs incurred in the said proceedings including advertising and printing and posting notices, shall be defrayed by the said borough; and each of the said viewers shall be entitled, as compensation, to a sum not exceeding five dollars per day for every day necessarily employed in the performance of the duties herein prescribed.

Section 7, Act of June 10, 1901, P. L. 555.

Section 9. All damages, when ascertained and determined, shall be assessed against and paid by the borough so taking, using and appropriating the property, as aforesaid.

Section 8, Act of June 10, 1901, P. L. 555.

Section 10. In the preparation of specifications for the erection, construction, and alteration of any public building, when the entire cost of such work shall exceed one thousand dollars, it shall be the

duty of the architect, engineer, or other person preparing such specifications, to prepare separate specifications for the plumbing, heating, ventilating, and electrical work; and it shall be the duty of the person or persons authorized to enter into contracts for the erection, construction, or alteration of such public buildings to receive separate bids upon each of the said branches of work, and to award the contract for the same to the lowest responsible bidder for each of said branches.

Section 1, Act of May 1, 1913, P. L. 155.

Section 11. In the letting of contracts for the erection and construction of any public building when plans and specifications for same shall be submitted for bids, the same shall be accompanied by a bill or list of quantities of materials required for such building, to be prepared and furnished by the architect or engineer preparing the plans, which bill or list shall be attached to the specifications, and shall be for a guide to bidders in making their estimates of materials required, and a means by which bidders may test their own estimates: Provided however, That the correctness of such bill or list of materials shall not be taken as being guaranteed by the authorities submitting such plans and specifications for bids.

Section 1, Act of July 2, 1895, P. L. 426.

(b) PUBLIC WORKS.

Section 12. The several boroughs of this Commonwealth shall have power to purchase any real estate, within or without the borough limits, which they may need, upon which to erect, construct, and maintain garbage or incinerating furnaces and sewage-disposal works or plants, with the necessary filter-beds, appliances, drains, and sewers, and for any extensions thereof; and in case they cannot agree with the owner or owners as to the price thereof, or in case the owner or owners thereof are absent, or are incapacitated from any cause, or are unknown, by reason of which no agreement can be made, it shall be lawful for each respective borough, and the same is hereby authorized and empowered, to take and appropriate for any of the said purposes, and any extensions thereof, such necessary and sufficient real estate, within or without the borough limits, as the case may be after an ordinance shall have been passed providing for such taking and appropriation: Provided, That in no case shall any real estate be acquired, or contract for the construction of sewage-disposal works or plants, or sewer drains extending thereto, be entered into, until a permit for the location and construction of the same shall have been obtained from the Commissioner of Health.

Section 1, Act of April 1, 1909, P. L. 79.

Section 13. In cases where the borough and the owner or owners cannot agree as to the price or damages to be paid; or where, by reason of the absence or legal incapacity of such owner or owners, or where the owner or owners are unknown, no agreement as to the price or the damages sustained can be agreed upon; the said borough may tender its bond to the party claiming or entitled to said moneys or damages or to the agent of any person absent, or to the guardian or committee of any one under legal incapacity; the condition of which shall be, that the said borough will pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon by the parties, or assessed: Provided, however, That in case the party claiming damages refuses to or does not accept said bond as tendered, the said borough shall then give said party a written notice, at least five days beforehand, of a time when the same will be presented for filing in court; and thereafter said borough may present said bond to the proper court of common pleas, or to any law judge thereof in vacation; and if the said bond is approved, it shall be filed in said court for the use of those interested.

Part of Section 2, Act of April 1, 1909, P. L. 79.

Section 14. In case the title to the lands, to be taken and appropriated as aforesaid, is defective, disputed, or doubtful; or the party owning or interested in the said real estate is absent, unknown, not of full age, of unsound mind, or from any cause cannot be bargained with or served with notice or have a bond tendered to him, her or them, within the county where the lands are taken; the court of common pleas of the proper county, or any judge thereof in vacation, upon petition of the said borough setting forth the necessary facts, shall direct the filing of a bond to the Commonwealth of Pennsylvania, in an amount to be fixed and approved by the court, or a law judge in vacation, for the use of those who may be found entitled to the damages for said taking and appropriation; the condition whereof shall be the same as is hereinabove provided in bonds to be tendered owners when known. Upon the filing and approval of any bond provided for by this section, the respective borough shall have the right to enter upon, take and appropriate the lands mentioned in the bond aforesaid, and the title acquired by virtue of the provisions of this act shall be the fee simple title.

Part of Section 2, Act of April 1, 1909, P. L. 79.

Section 15. In case the damages for the said taking and appropriation have not been agreed upon, any court of common pleas of the proper county, or any law judge thereof in vacation, on application thereto by petition of the borough or any person inter-

'ested, shall appoint three discreet and disinterested freeholders as viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the premises or lands taken or appropriated and view the same. The said viewers shall give or cause to be given at least ten days' notice of said meeting, to the owner or owners of the lands taken, if such owner or owners reside within the proper county, and can be found; and where the owner or owners are minors and have a guardian, then said notice shall be given to the guardian, if resident within the county, and can be found; and where the owner or owners are lunatic or of unsound mind, and have a committee or guardian, such notice shall be served upon said guardian or committee; and in all cases where the owner or owners are incapacitated or are unknown, notice shall be given in at least two newspapers of general circulation, printed and published in the proper borough or county; and they shall give such other or further notice as the court shall direct, having regard to the circumstances of the case. Where minors have no guardian, and lunatics or persons of unsound or feeble mind have no guardians or committees, the said court shall have power to appoint a guardian or committee ad litem, and direct that said notice and all other notices required by this act shall be served upon them.

Section 3, Act of April 1, 1909, P. L. 79.

Section 16. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide and a true report to make concerning the matter to be submitted to them, in relation to which they are authorized to inquire, shall hear the parties interested and their witnesses; and shall estimate and determine the value of the lands taken and appropriated, and any damages that may have been sustained by reason of said taking and appropriation, and to whom the same is payable; and, having so estimated and determined the value of the property and damages sustained, they shall make up their report, which shall be signed by them, or any two of them, and thereupon filed in the court of common pleas from which the order to view issued. Upon the filing of said report, the said viewers shall give notice thereof by one publication, in at least two newspapers printed and published in the proper borough or county, and in additional papers if so directed by the court.

Section 4, Act of April 1, 1909, P. L. 79.

Section 17. Upon said report being filed in court, any interested party, within thirty days, may file exceptions thereto; and the court shall have power to confirm, modify, change, or otherwise correct the same, or refer the same back to the same or new viewers,

with like power as to their report. Or within said thirty days from the filing of any such report in court, the respective borough, or any party whose lands have been taken, may appeal to the proper court of common pleas, and demand a trial by jury according to the course of the common law; and said court shall have power to order what notices shall be given in connection with any part of the proceedings, and make all such orders as it may deem requisite. Upon the entry of final judgment on any issue had upon such appeal, either party shall have the right to an appeal to the superior or supreme court, as in other cases.

Section 5, Act of April 1, 1909, P. L. 79.

Section 18. The viewers provided for in the foregoing sections may be appointed at any time after the ordinance is passed and approved, providing for said taking and appropriation; and their fees shall be not more than four dollars for each day necessarily employed, and all costs of views shall be paid by the proper borough.

Section 6, Act of April 1, 1909, P. L. 79.

Section 19. This article shall not be construed so as to repeal, or in any way affect the provisions of an act, entitled "An act to preserve the purity of the waters of the State for the protection of the public health," approved the twenty-second day of April, one thousand nine hundred and five, or to in any way limit powers of the Department of Health with regard to the regulations of the discharge of sewage in the boroughs of this Commonwealth.

Section 7, Act of April 1, 1909, P. L. 79.

Section 20. Any borough desiring to locate any garbage or incinerating plant under the provisions hereof shall first apply to the court of common pleas of the proper county for its approval of the location thereof; whereupon said court shall fix a date upon which objection to the said location will be heard by the court, and shall also prescribe what notice of such hearing shall be given. If at the time fixed for such hearing, after notice given as prescribed by the court, no objection shall be made to such location, the same shall be approved; but if objection be made, then the court shall proceed promptly to hear the said matter, and determine whether the said location is an unwarranted detriment to neighboring properties; and its approval or disapproval of the said location, based upon the said finding, shall be final and conclusive, but shall in no way adjudicate any question relating to the right of any person to recover damages for injuries growing out of the location or operation of the said plant.

Section 8, Act of April 1, 1909, P. L. 79.

CHAPTER VI.

ARTICLE XX.

WHARVES AND DOCKS.

(a) CONSTRUCTION. — APPROPRIATION OF PRIVATE PROPERTY.

Section 1. The town council of all boroughs are hereby authorized and empowered to erect, make and repair wharves and docks, to regulate and fix the rate of wharfage for all public wharves and docks within their respective limits, and to enforce the collection of wharfage for the use of the same, and also to regulate the stationing or anchoring of vessels, boats or rafts within their respective limits, and the depositing of freight or lumber on the said public wharves.

Part of Section 1, Act of April 17, 1889, P. L. 34.

Section 2. That the several boroughs of this Commonwealth shall have power to acquire by purchase or by condemnation such real estate as they may need for the construction of wharves, landing-places, and docks within the limits of such boroughs, along navigable streams.

Section 1, Act of June 21, 1911, P. L. 1099.

Section 3. If any such borough shall not be able to agree with the owner or owners of any such real estate relative to the price thereof, or whenever the owner or owners of such real estate shall be absent, or shall from any cause be incapacitated, or shall be unknown, whereby no such agreement can be made, such borough may take and appropriate such real estate as may be necessary for the purposes aforesaid. No real estate shall be taken or appropriated until an ordinance authorizing the same shall have been duly passed and approved.

Section 2, Act of June 21, 1911, P. L. 1099.

Section 4. Whenever, from any cause, an agreement cannot be made between any borough and the owner or owners of any such real estate as to the price thereof, such borough may tender its bond to such owner or owners, or to the agent, if such owner or owners shall be absent, or to the guardian or committee of any one incapacitated.

Part of Section 3, Act of June 21, 1911, P. L. 1099.

Section 5. In case the owner or owners, or agent or committee, or guardian, as aforesaid, shall refuse to accept such bond, the borough shall present such bond for approval to the court of common pleas of the proper county, or to any law judge thereof in vacation. A notice of such application, in writing, with a true copy of the proposed bond, shall be served on such owner, owners, agent, committee, or guardian, at least five days before application shall be made for approval of such bond. If such bond shall be approved by said court, it shall be filed in the prothonotary's office of the proper county, for the use of those interested.

Part of Section 3, Act of June 21, 1911, P. L. 1099.

Section 6. In case the title to any or all of the real estate so taken shall be defective, disputed, or unmarketable, or if from any cause no bond can be tendered as aforesaid, nor any notice served, the borough may present its petition to such court, or to any law judge thereof in vacation, setting forth the necessary facts. Whereupon such court or judge may direct that the bond of such borough be executed to the Commonwealth, and filed in such court, for the use of those who shall be entitled to any damages for such taking or appropriation. The amount of such bond shall be fixed by said court or judge.

Part of Section 3, Act of June 21, 1911, P. L. 1099.

Section 7. The condition of each bond provided for in the foregoing sections of this article shall be, that the proper borough will pay to the party or parties entitled thereto such amount of damages as may be agreed upon between such party or parties and the borough, or as may be assessed or awarded.

Part of Section 3, Act of June 21, 1911, P. L. 1099.

Section 8. Upon the approval and filing of any bond provided for in the foregoing sections of this article, the proper borough may enter upon, take, and appropriate the real estate mentioned in such bond, and the title thereof, acquired by such borough, shall be a title in fee simple.

Part of Section 3, Act of June 21, 1911, P. L. 1099.

Section 9. Whenever the price or damages for said taking and appropriation shall not be agreed on, the said court or judge, on the petition of the borough or any person interested, shall appoint three discreet and disinterested freeholders as viewers, and shall fix a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the said real estate and view the same. At least ten days notice of the time and place of such meeting shall be given to the owner or owners of such real

estate, or to such agent, committee, or guardian. If service of such notice cannot be had on such owner, owners, agent, committee, or guardian, such notice shall be given in at least two newspapers of general circulation in such borough, or, if none be published in such borough, then in two such newspapers of the proper county. Such other and additional notice shall be given as the said court or judge may direct.

Part of Section 4, Act of June 21, 1911, P. L. 1099.

Section 10. When any owner of such real estate shall be a minor or mentally incapacitated, the said court may, on the application of such borough, appoint a guardian or committee ad litem for such owner, and may direct that said notice be served on such guardian or committee.

Part of Section 4, Act of June 21, 1911, P. L. 1099.

Section 11. The said viewers shall be sworn or affirmed to perform faithfully and impartially the duties required of them. Said viewers shall hear all parties interested and their witnesses, shall determine the fair value of the real estate taken and appropriated, and shall determine the damages, if any, that may have been sustained by reason of said taking and appropriation, and to whom the same shall be payable. Said viewers shall then prepare a report of their findings, which shall be signed by at least two of them, and which shall be filed in the court aforesaid. Within five days after the filing of said report, a notice of such filing shall be published in at least two newspapers of general circulation published in such borough or county. Additional notice may be given, when and as directed by said court.

Section 5, Act of June 21, 1911, P. L. 1099.

Section 12. The damages for the taking or injury of any property for use as a public wharf, pier, or bulkhead shall include full compensation for the value of said property taken or injured; and, in the event that the property so taken or injured shall constitute a part of a plant used as an entirety, the damage to owner or tenant shall be assessed by taking the difference in market value of such plant as a whole, including buildings, machinery, fixtures, and other equipment, installed and used in said plant, before and after such taking or injuring, and notwithstanding that part of said plant may be separated by a street or public highway.

Section 1, Act of June 20, 1913, P. L. 543.

Section 13. Exceptions to said report may be filed by the borough or any party interested, within thirty days after such report shall be filed. Said court shall have the power to confirm or modify said

report, or to refer it back to said viewers, or to refer it to new viewers with powers and duties similar to those of the former viewers.

Part of Section 6, Act of June 21, 1911, P. L. 1099.

Section 14. Within thirty days after the filing of said report, said borough or any party interested may appeal to the proper court of common pleas, and demand and be entitled to a trial by jury according to law. Upon final judgment on such appeal, either party may appeal to the superior court or to the supreme court, as in other causes.

Part of Section 6, Act of June 21, 1911, P. L. 1099.

Section 15. Said viewers shall receive such compensation, not exceeding five dollars per day, as may be allowed by the court. The costs of all proceedings including said compensation, shall be paid out of the treasury of the proper borough.

Section 7, Act of June 21, 1911, P. L. 1099.

(b) AUTHORITY TO LEASE WHARVES.

Section 16. Boroughs shall have power to lease all, or any portion of such wharf, or wharves, and collect rent therefor by distress or otherwise, as now provided by law for the collection of rents: Provided, That no one term of such lease shall be for a longer period than three years.

Part of Section 1, Act of April 17, 1889, P. L. 34.

(c) POWER TO ERECT AND MAINTAIN MARKET HOUSES AND TERMINAL STATIONS.

Section 17. In addition to the powers hereinbefore provided, boroughs shall have power to erect and maintain market houses and terminal sheds or stations on wharves, for the receipt and distribution of freight, express, and other matter hauled by boats, railroads, and street cars. Said power shall include the right to construct railroad and street-railway tracks or other facilities on said wharves to provide for the convenient handling of such freight or express matter, and the right to collect rents, tolls, or charges for the use of such market houses, terminal stations, tracks, and other facilities. No permit other than a license revocable at will shall be granted for the use of such tracks, terminal stations, or other facilities, and no exclusive permit for the use of such tracks or facilities shall be granted.

Section 1, Act of July 24, 1913, P. L. 1017.

Section 18. No structure erected pursuant to the provisions of the preceding section, and no right granted under the powers herein conferred, shall interfere with the general public use of wharves for river commerce.

Section 2, Act of July 24, 1913, P. L. 1017.

CHAPTER VI.

ARTICLE XXI.

POWER TO LICENSE AND LICENSE FEES.

(a) AUCTIONEERS.

Section 1. It shall be lawful for the councils of the incorporated boroughs of this Commonwealth to regulate and license persons or firms engaged in the business of auctioneering goods, wares and merchandise of whatever kind within said boroughs, respectively, and to fix the amount to be paid by the same: Provided, That this section shall not apply to persons or firms regularly engaged in business, for the space of three months, within said boroughs, who may desire to sell out their stock of goods to retire from business, or to reduce stock: And provided further, That the license herein authorized shall be in addition to all other licenses now required by law.

Section 1, Act of May 7, 1887, P. L. 93.

(b) FOREIGN DEALERS.

Section 2. Hereafter the several boroughs of this Commonwealth shall have power to tax or license foreign dealers in merchandise, or their agents, having no permanent place of business in any such borough, but temporarily engaged in selling and disposing of merchandise, either by wholesale or by retail, to an amount not exceeding the local taxes or licenses imposed on resident merchants engaged in a like business: Provided, That the provisions of this section shall not apply to sales by sample.

Section 1, Act of May 24, 1887, P. L. 185.

Section 3. Boroughs shall have power to enforce the provisions of the preceding section by providing proper penalties by ordinance duly enacted.

Section 2, Act of May 24, 1887, P. L. 185.

(c) TRANSIENT MERCHANTS.

Section 4. It shall be unlawful for any person, firm or corporation, without a license as provided in this section or the subsequent sections predicated thereon, to conduct any business in any borough the whole or greater part of which shall consist of the sale of goods which shall be held forth or represented or advertised to be goods of, or obtained from, the estate of any bankrupt; or goods of, or obtained from, an assignee, or a person, firm, or corporation about to go out of business; or goods that have been damaged in any way: Providing, That nothing in this act shall prohibit the sale of any such goods by any assignee, trustee, receiver, or other officer appointed by any court of this Commonwealth or of the United States, acting for the estate of any such bankrupt, or other person, firm or corporation, within the limits of the borough wherein the said person, firm or corporation conducted said business, or had the goods immediately before the appointment of such assignee, trustee, receiver or other officer: And provided further, Nothing in this act shall prohibit the sale of any goods, damaged in any way, if the same are sold within the limits of the borough wherein said owner conducted business, or had the said goods at the time the said goods become damaged.

Section 1, Act of May 20, 1913, P. L. 227, and Section 1, Act of May 2, 1899, P. L. 159.

Section 5. A license to conduct such business shall be issued by the treasurer of the proper borough, wherein the said business is conducted. The fees for boroughs shall be fixed by ordinance of the proper borough. In boroughs the license fee shall not be less than one hundred dollars ($100), nor more than two hundred dollars ($200), for each calendar month, or fraction thereof. The license shall be renewed monthly during the time such person, firm, or corporation shall conduct such business. This license shall be in addition to all license fees and taxes imposed by this Commonwealth and the proper borough.

Section 2, Act of May 20, 1913, P. L. 227, Section 1, Act of May 2, 1899, P. L. 159.

Section 6. Any person, firm, or corporation that shall violate any of the provisions of sections four or five of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay, for each day such business shall be conducted without a license, a fine of not more than two hundred dollars ($200).

Section 3, Act of May 20, 1913, P. L. 227, Section 1, Act of May 2, 1899, P. L. 159.

(d) VEHICLES.

Section 7. The town council of each borough within this Commonwealth shall have power to enact ordinances establishing reasonable rates of license-tax on all hacks, carriages, omnibuses, motor-vehicles, and other vehicles used in carrying persons or property for pay; regulating the operation and compensation of such vehicles within the limits of any such borough, or between any such borough and other points or places.

Section 1, Act of June 5, 1913, P. L. 434, and Section 1, Act of April 22, 1889, P. L. 39.

Section 8. The said ordinances shall be enforced as other ordinances are by law enforced, and the license-tax shall be collected as other license-taxes, fines, and penalties are authorized to be collected in Chapter twelve, Article one.

Section 2, Act of June 5, 1913, P. L. 434, and Section 2, Act of April 22, 1889, P. L. 39.

(e) RESTRICTIONS.

Section 9. It shall be unlawful for any borough of this Commonwealth to levy or collect any money or tax, as a license-fee, from any farmer who sells his own products in or about the streets of any borough of this Commonwealth.

Section 1, Act of April 22, 1903, P. L. 258.

Section 10. It shall be unlawful for any borough to levy any license or mercantile tax upon persons taking orders for merchandise by sample, from dealers, for individuals, of companies who pay a license or mercantile tax upon their chief places of business. It shall also be unlawful for any borough to collect such license or mercantile tax hereafter levied by virtue of an ordinance of any borough: Provided, That nothing in this section shall authorize such person to sell by retail to others than dealers or merchants.

Section 1, Act of May 17, 1883, P. L. 31.

CHAPTER VII.

GOVERNMENT.

ARTICLE I.

TOWN COUNCIL.

Section 1. The members of the legislative department of the boroughs of this Commonwealth, shall assemble in their place of meeting, for the purpose of organization, at ten o'clock in the forenoon of the first day of the term, following the municipal election, on which the terms of any members of such legislative department shall begin.

Section 1, Act of June 9, 1911, P. L. 857.

Section 2. The councils of the several boroughs of this Comonwealth shall organize on the first Monday of January, one thousand nine hundred and sixteen and biennially thereafter.

Section 2, Act of June 19, 1911, P. L. 1047.

Section 3. Before entering upon the duties of their offices the corporate officers shall take and subscribe an oath or affirmation. before any judge or justice of the peace of the proper county, to support the constitution of the United States and of the Commonwealth of Pennsylvania, and to perform the duties of their respective offices with fidelity; and the same shall be entered upon or filed among the records of the corporation: Provided, That the chief officer of the corporation, having been first duly qualified, may administer to the other officers the said oaths and affirmations.

Section 3, cl. 2, Act of April 3, 1851, P. L. 320.

Section 4. The chief burgess shall have the right, and it shall be his duty, to attend the meetings of the said council, at the biennial organization thereof for the election of the president and the secretary and such other officers as are required to be elected at that time; and shall have no voice unless the council shall be equally divided, in which event he shall cast the deciding vote for all such officers. After such officers, required by law and the borough ordinances, are elected, the president- elect shall assume the duties of his office, and shall preside over the meetings of said council, and when absent his place shall be filled by a president pro-tempore.

Part of section 1, Act of April 18, 1905, P. L. 215, amending Section 2, Act of May 23, 1893, P. L. 113.

Section 5. If the council of any borough in this Commonwealth shall fail to organize for the transaction of business within ten days after the time fixed by law for said organization to be made, the court of quarter sessions of the proper county, upon complaint in writing of any ten taxable citizens of the borough sworn to by five of the signers thereof, shall issue a rule to show cause upon the delinquents why his or their seats should not be declared vacant, returnable not less than five days thereafter, and on due proof of such failure having been made to the satisfaction of the court, it may declare the seats of delinquent councilmen of the said borough vacant and appoint others in their stead until the next borough election.

Section 1, Act of March 27, 1897, P. L. 8.

Section 6. It shall be the duty of the corporate officers, a majority of whom shall be a quorum:

I. To meet statedly at least once a month, and within ten days after the election of any corporate officer.

II. To make full records of their proceedings, and to provide for the preservation thereof.

Section 3, paragraph 1, and clauses I and 3, of the Act of April 3, 1851, P. L. 320.

III. To enact, revise, repeal and amend all such laws, rules, regulations and ordinances, not inconsistent with the laws of the Commonwealth, as shall be determined by a majority of them necessary to promote the peace, good order, benefit, and advantage of the borough.

Part of Section 8, Act of April 1, 1834, P. L. 163, Section 2, clause 1, Act of April 3, 1851, P. L. 320.

IV. To publish in at least one newspaper, if such be printed in the proper county, and by not less than twelve advertisements, to be put up in the most public places in the borough, every enactment, regulation, ordinance or other general law, at least ten days before the same shall take effect.

V. To appoint and remove a treasurer, secretary, solicitor, one or two street commissioners, and such other officers, prescribe their duties and allow them such compensation as they may deem necessary, to secure the peace, order and well-being of the inhabitants, and to enforce the ordinances and regulations of the borough.

Section 3, clauses 4, and 5, and section 2, clause 21, of the Act of April 3, 1851, P. L. 320.

VI. From time to time to fix the salaries of the high constable, secretary, treasurer, street commissioner, and such other officer as they may appoint; and also the compensation to be made to the judges, inspectors, and clerks of the election for borough officers; which salaries and allowances shall be paid out of the proper borough treasury, by orders drawn thereon signed by the burgess.

Section 15, Act of April 1, 1834, P. L. 163.

VII. To give due and reasonable personal notice of all orders and regulations affecting particular individuals.

VIII. To make a draft or plan of the roads, streets, lanes, alleys and courts opened or laid out, with every explanation necessary to a full understanding of the same, which draft or plan shall be kept by the clerk, and shall be open to public inspection when required.

Section 3, clauses 6 and 7, Act of April 3, 1851, P. L. 320.

IX. To fix from time to time, the amount of security to be given by the treasurer, and high constable, and to direct the publication of the accounts of the treasurer annually, and the mode of publication.

Section 3, Clause 10, Act of April 3, 1851, P. L. 320.

X. To mitigate or remit fines and forfeitures in all cases where it shall appear that the person or persons so fined did not offend intentionally, or on having some other just and reasonable excuse to plead in his, her or their behalf.

Part of Section 9, Act of April 1, 1834, P. L. 163.

Section 7. Every ordinance and resolution which shall be passed by said council shall be presented to the chief burgess of such borough; if he approve, he shall sign it, but if he shall not approve, he shall return it with his objections to said council at the next regular meeting thereof, when said objections shall be entered at large in the minute-book, and said council shall proceed to a reconsideration of such ordinance or resolution. If, after such reconsideration, two-thirds of all the members elected to said council shall vote to pass such ordinance or resolution, it shall become and be of as full force and effect as if the said chief burgess had signed it, but in such cases the votes of the members of council shall be determined by the yeas and nays, and the names of the members voting shall be entered on the minutes of said council: Provided, That when the number of councilmen is less than nine, a majority of council and one vote more shall be required to pass an ordinance over the veto. If such ordinance or resolution shall not be returned by the chief burgess at the next regular meeting of said council after the

same shall have been presented to him, the same shall likewise become and be in as full force and effect as if he had signed it: Provided, That before any ordinance shall come into force and effect, as aforesaid, the same shall be recorded in the borough ordinance-book with the certificate of the secretary, and be advertised as heretofore required by law.

Section 3, Act of May 23, 1893, P. L. 113.

Section 8. Whenever two or more boroughs are consolidated under the provisions of Chapter II, Article II, the chief burgess shall have the power to veto any ordinance or resolution passed by the council, and no ordinance or resolution enacted by the council shall become effective until signed by the burgess, unless the same shall be passed over his veto by the affirmative vote of two-thirds of all of the members of such council. The chief burgess shall either consent or disapprove with his reasons for such disapproval of every ordinance or resolution passed by said council within ten days thereafter. And the vote upon passing any ordinance or resolution over the veto of the chief burgess shall be taken at the next stated session of the town council thereafter.

Section 7, Act of June 6, 1893, P. L. 335.

Section 9. Whenever two or more boroughs are consolidated under the provisions of Chapter II, Article II, the town council of the new borough at their first session after the consummation of the consolidation shall designate by ballot which of the treasurers of the two boroughs shall be treasurer of the new borough, which of the high constables shall be the high constable of the new borough, and which of the auditors shall be the auditors of the new borough. They shall also select some suitable person to be clerk of the council, and thereafter, annually, the qualified electors of such borough shall elect one person as high constable, one person as borough treasurer and three persons as auditors, and the town council shall select the clerk of the council.

Section 10, Act of June 6, 1893, P. L. 335.

Section 10. The councils of any borough within this Commonwealth, shall have power to compel the attendance of witnesses, and the production of books, papers and other evidence, at any meeting of the body or any committee thereof, and for that purpose may issue subpoenas, signed by the president of council or the chairman of the committee, in any pending case of inquiry, investigation or impeachment, and cause the same to be served and executed in any part of this Commonwealth; and if any witness shall refuse to testify as to any fact within his knowledge, or to produce any books or papers within his possession or under his control, required to be

used as evidence in any such case, the clerk of council, by whose authority such witness was subpoenaed, shall forthwith report the facts relating to such refusal to one of the courts of common pleas of the county within which such borough is situated; and all questions arising upon such refusal, and also upon any new evidence, not included in said clerk's report (which new evidence may be offered in behalf of or against such witness), shall at once be heard by said court. If the court determine that the testimony or evidence required by such witness is legal and properly competent, and ought to be given or produced by him, then said court shall make an order commanding such witness to testify or produce books or papers (or both, as the case may be), and if such witness shall thereafter refuse to testify or to produce books or papers, as aforesaid, in disobedience of such order of the court, then the said court shall have power to order the commitment of such witness to the county jail of the proper county, for contempt.

Section 1, Act of March 19, 1903, P. L. 31.

Section 11. Any person, so called as a witness, may be examined under oath, and shall be liable to indictment, conviction and punishment for perjury, in the same manner and to the same extent as if the witness had been called and examined before any committee of the legislature of the Commonwealth, or in any judicial proceeding before any of the courts thereof, in accordance with existing laws: Provided, That the person or persons outside of such borough, subpoenaed as aforesaid, shall not be required to respond to the same until they have been furnished with mileage to and from said borough, at the rate of ten cents per mile, and a per diem allowance of two dollars for the time their presence is desired in said borough.

Section 1, Act of March 19, 1903, P. L. 31.

Section 12. In any borough in which the ordinance book has been lost, destroyed, or so much worn or mutilated as to be unserviceable, the proper borough authorities may provide by an ordinance for the making and keeping a new ordinance book, into which there shall be transcribed by the borough secretary or clerk all of the then valid and existing ordinances.

Section 1, Act of June 21, 1911, P. L. 1113.

Section 13. The secretary or clerk, in transcribing the ordinances into a new ordinance book as within provided, shall copy each one complete, including date of enactment and approval, and the names of the officers who signed same, and, after notice given and corrections made, he shall certify each ordinance as a true and correct copy of the original.

Section 2, Act of June 21, 1911, P. L. 1113.

Section 14. The ordinance providing for the transcribing of such ordinances into a new ordinance book shall be recorded in said book, immediately following the ordinances so transcribed, and it shall provide that the borough secretary or clerk, upon the completion of the work of transcribing said ordinances, shall publish once a week for four weeks in at least one newspaper of general circulation published in said borough, if there be such, and, if not, then one published within the county where the borough is located, a notice stating that all of the then valid and existing ordinances of the borough have been transcribed into a new ordinance book; that the old books and records of borough ordinances and the new ordinance book are open to public inspection, verification, and correction during the thirty (30) days from the date of said notice; and at the end of said thirty (30) days' notice, the borough secretary or clerk shall make correction of any and all errors or inaccuracies therein that may be called to his attention, and shall then certify that all of said ordinances have been compared with the original ordinances and are true and correct copies.

Section 3, Act of June 21, 1911, P. L. 1113.

Section 15. After said ordinances are transcribed, notice of said transcribing given, and certificates of correctness made by the borough secretary or clerk, as within provided, the ordinances so transcribed shall take the place of the original record and shall be the valid and legal ordinances of such borough.

Section 4, Act of June 21, 1911, P. L. 1113.

CHAPTER VII.

ARTICLE II.

CHIEF BURGESS.

Section 1. The chief burgess shall not hold any other borough office or appointment during the term for which he is elected; nor be a member of, nor preside at the meetings of, the town council of said borough, nor be eligible to succeed himself.

Section 1, Act of April 18, 1905, P. L. 215.
Section 1, Act of May 23, 1893, P. L. 113.

Section 2. The burgess, before entering on the duties of his office, shall take and subscribe an oath or affirmation before a justice of the peace, to support the Constitution of the United States and of this State, and to perform the duties of his office with fidelity, and the certificate of such oath or affirmation shall be filed among the records of said boroughs.

Drafted from Section 7, Act of April 1, 1834, P. L. 163.

Section 3. The duties of the burgess shall be discharged by the president of council during the absence or incapacity of such burgess.

Section 1, Act of June 10, 1901, P. L. 551.

Section 4. The councils of the several boroughs in this Commonwealth, may and are hereby empowered to fix, by appropriate ordinance, the salary to be paid annually out of the borough treasury to the burgess of such borough.

Section 1, Act of April 23, 1909, P. L. 154.

Section 5. Such salary shall not exceed, per annum, one hundred dollars per thousand for the first five thousand population, or fraction thereof; and fifty dollars per annum for each additional one thousand of population, or majority fraction thereof; and, in determining such population, the council may take the last United States decennial census, or five times the number of voters in such borough, as shown by the last registration thereof.

Section 2, Act of April 23, 1909, P. L. 154.

Section 6. Such salary, when so fixed by ordinance, shall not be changed during the term of the incumbent; and shall be paid out of the borough treasury, in monthly installments, on proper warrant authorized by the council; and shall be in lieu of all costs and fees allowed a burgess by existing law; which costs and fees shall be taxed and collected by such burgess, and turned into the borough treasury monthly, together with a sworn statement of the same.

Section 3, Act of April 23, 1909, P. L. 154.

Section 7. In all cases where the chief burgess is given the jurisdiction of a justice of the peace, he shall charge the costs and fees of a justice of the peace for like services, which costs and fees shall be turned into the borough treasury monthly, together with a sworn statement of the same: Provided, That in boroughs where the burgess does not receive any salary, he shall be entitled to retain such fees.

Drafted from Section 3, Act of April 23, 1909, P. L. 154, Section 5, Act of April 1, 1851, P. L. 320, and Section 1, Act of May 19, 1887, P. L. 133.

Section 8. The chief burgess shall have power:

I. To enforce the by-laws, ordinances, rules and regulations of the corporation.

II. To exercise jurisdiction in all disputes between the corporation and individuals, arising under the same.

III. To exercise the powers, jurisdiction and authority of justices of the peace, within the borough, for the suppression of riots, tumults, disorderly meetings, and in all criminal cases for the punishment of vagrants and disorderly persons.

Section 5, Act of April 3, 1851, P. L. 320.
See Commonwealth v. Thompson, 110 Pa. 297.

IV. To administer all oaths and affirmations in matters pertaining to borough affairs.

Section 1, Act of April 23, 1903, P. L. 291.

V. To exercise the criminal powers, jurisdiction and authority of a justice of the peace, in the enforcement of all ordinances of the borough, and the collection of fines and penalties imposed under the same.

Section 1, Act of May 19, 1887, P. L. 133.

Section 9. It shall be the duty of the chief burgess:

I. To preserve order and maintain the peace of the borough, to enforce the ordinances and regulations, to hear complaints, to remove nuisances and exact a faithful performance of the duties of the officers appointed.

II. To demand and receive sufficient security, in the amount fixed by the corporation, from the treasurer, and high constable.

III. To sign the several by-laws, rules, regulations and ordinances adopted, after they shall have been duly and correctly transcribed by the secretary.

Section 6, Act of April 3, 1851, P. L. 320.

IV. To keep correct account of all fees, fines and costs received by him, and shall render a report to the councils at each regular meeting, setting forth an itemized statement of all fees, fines and costs received by him by virtue of his office since the last regular meeting of said councils, with the date at which and the name of the person from whom the same was received, and shall prior to or on the date aforesaid, pay all such moneys into the borough treasury.

Section 1, Act of June 24, 1895, P. L. 255.

V. To carry into effect all by-laws and ordinances enacted by the town council. He is also required to cause to be opened all roads, streets, lanes or alleys lying partly within the borough, that may be laid out by order of the court of quarter sessions.

Section 9, Act of April 1, 1834, P. L. 163.

Section 10. Any burgess, who shall neglect or refuse to open any road, street, lane or alley, as provided in the preceding section shall be liable to a fine of not less than four dollars nor more than fifty dollars, such fine shall be recovered in a summary proceedings before any justice of the peace of the county where the borough in which the burgess is elected, is situated.

Drafted from Section 12, Act of April 6, 1802, P. L. 178, extended by Section 9, Act of 1834, P. L. 163.

Section 11. Whenever two or more boroughs are consolidated under the provisions of Chapter II, Article II, of this act, the chief burgess of such borough shall not be a member of the Council or entitled to a seat therein.

Part of Section 7, Act of June 6, 1893, P. L. 335.

Section 12. That any person who shall hold the office of burgess is hereby declared to be incapable of holding or exercising, at the same time, any office, or appointment of profit or trust, under the government of the United States, whether a Commissioned officer or otherwise, a subordinate officer or agent, who is or shall be employed under the legislative, executive or judiciary departments of the United States, nor be a member of Congress.

Drafted from Section 1, Act of May 15, 1874, P. L. 186.

Section 13. The holding of the office of burgess is hereby declared to be incompatible with any office or appointment under the United States, and every office of burgess so holden, contrary to the true intent and meaning of this act shall be and is hereby declared to be null and void.

Drafted from Section 2, Act of May 15, 1874, P. L. 186.

Section 14. If any person shall exercise the office of burgess contrary to sections 12 and 13 of this article, every person so offending shall for every such offence, being thereof legally convicted in any court of record, forfeit and pay any sum not less than fifty nor more than five hundred dollars, at the discretion of the court, one moiety of the said forfeiture to be paid to the overseers, guardians or directors of the poor of the borough or county where such offence shall have been committed, to be applied to the support of the poor, and the other moiety thereof to the prosecutor who shall sue for the same.

Drafted from Section 3, Act of May 15, 1874, P. L. 186.

CHAPTER VII.

ARTICLE III.

HIGH CONSTABLE.

Section 1. The high constable, before entering on the duties of his respective office shall take and subscribe an oath or affirmation before a justice of the peace, to support the constitution of the United States and of this State, and to perform the duties of his office with fidelity, and the certificate of such oaths or affirmations shall be filed among the records of said borough.

Drafted from Section 7, Act of April 1, 1834, P. L. 163.

Section 2. The high constable shall give bond with surety as required by the corporation; he shall have the power and authority of constables of the several townships in the proper county; he shall serve the notices prescribed by this act, and attest the services of the same by affidavit in writing, signed by him, and deposited with the secretary of the corporation.

Section 13, Act of April 3, 1851, P. L. 320.

Section 3. It shall be the duty of the high constable of all boroughs to give notice of the biennial elections of said borough by setting up six advertisements in the most public places in said borough, ten days previous thereto.

Section 14, Act of April 1, 1834, P. L. 163.

Section 4. It shall not be lawful for any high constable who is at the same time employed as a policeman in any borough to charge or accept any fee or other compensation, in addition to the salary paid to him as a policeman, for any service rendered or performed by him pertaining to his office or duties, either as a policeman or as such high constable, except public rewards and the legal mileage allowed to constables for traveling expenses.

Section 2, Act of July 14, 1897, P. L. 266.

Section 5. Any high constable employed as a policeman violating any of the provisions of the preceding section of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding fifty dollars and costs, or undergo imprisonment in the jail of the proper county not exceeding thirty days, or both, at the discretion of the Court.

Section 3, Act of July 14, 1897, P. L. 266.

CHAPTER VII.

ARTICLE IV.

AUDITORS.

Section 1. The auditors whose duty it shall be to audit the accounts of the officers of any borough, shall meet annually, on the day following the day which has been or shall be fixed by law for the organization of borough councils, and shall forthwith proceed to audit, settle, and adjust the accounts of the burgess, members of the council, treasurer, street commissioner, and other officers, either appointed or elected, of the borough; and of the tax collectors of each of said boroughs; and any such officer whose act or neglect shall have contributed to the financial loss of any borough shall be surcharged with the amount of such loss.

Section 2, Act of May 20, 1913, P. L. 254, amending section 1, Act of June 9, 1911, P. L. 865.

Section 2. The auditors shall cancel all orders and vouchers presented to them, which they shall find to have been paid, by writing the word "paid" on the face thereof.

Section 5, Act of May 3, 1909, P. L. 392.

Section 3. The said auditors shall complete such audit, settlement, and adjustment within as short a time as possible after the several times when they are required to meet in each year; and within ten days thereafter publish, by posting printed handbills in at least five public places in their respective boroughs, an itemized report or statement of the receipts and expenditures of the said several officers for the preceding fiscal year; and also, within said period of ten days, file a copy of the same with the town clerk in their respective districts, and also with the clerk of the court of quarter sessions of the proper county, which shall be at all times subject to inspection by any citizen thereof: Provided, That when any two of said offices shall be exercised by the same person, only one statement shall be required.

Section 2, Act of May 3, 1909, P. L. 392, and Section 3, Act of May 20, 1913, P. L. 254, amending act of June 9, 1911, P. L. 865.

Section 4. It shall be lawful for the borough, or any taxpayer thereof on its behalf, or an officer or officers whose account shall be settled or audited, to appeal from the settlement or audit by the

auditors to the court of common pleas of the proper county, within thirty days after such report or settlement shall have been filed in the office of the clerk of the court of quarter sessions; whereupon the court may direct an issue to determine the disputed questions of fact between the officers accounting and the borough: Provided, That no appeal by such taxpayer or officer shall be received unless the applicant shall enter into recognizance, with one or more sufficient sureties, sufficient to prosecute the appeal with effect, and to pay all costs accruing thereupon, in case, if the appellant be a taxpayer, he shall fail to obtain a final decision more favorable to the borough, than that awarded by the auditors; or, in case the appellant be an accounting officer, or officers, he or they shall fail to obtain a final decision more favorable to the officer or officers than that awarded by the auditors.

Section 4, Act of May 20, 1913, P. L. 254, amending Section 3, Act of June 9, 1911, P. L. 865.

Section 5. When in any borough, within this Commonwealth, an appeal has been taken from the report of the auditors thereof, either by the borough, or by any person or persons engaged in such report with any sum of money, any taxpayer of said borough, may intervene in said appeal, and either prosecute the same, on its behalf, or defend it against the appeal of the person or persons charged, as aforesaid: Provided, That such taxpayer, at the time of intervention, shall file in the proper court of common pleas a bond, with one or more sufficient sureties, conditioned to indemnify the borough, against all costs which may accrue, by reason of such intervention, subsequently thereto.

Section 2, Act of May 31, 1913, P. L. 394.

Section 6. In case of any appeal from any report of auditors of any borough, any person interested, by intervention or otherwise, may order the appeal upon the argument list of the court of common pleas of the proper county, and testimony and other evidence may be taken on behalf of any person interested, before any person authorized to administer an oath, upon rule for that purpose served upon the opposite party. After hearing argument, the court shall file its findings of fact and law, and enter judgment in accordance therewith; collection of the same to be enforced by the party prevailing, by any appropriate proceeding, executionary or otherwise: Provided, That, if the court after argument shall deem any question or questions of fact so doubtful, under the evidence submitted, as to render it desirable that an issue should be directed as to such question or questions of fact, the court may direct such an issue.

Section 3, Act of May 31, 1913, P. L. 394.

Section 7. It shall be lawful for any party to except to any ruling or decision of the court upon any question or point of law that may arise, and appeal may be taken therefrom to the superior or supreme court; Provided, That such exceptions and appeals shall be governed and regulated by the law now in force regulating exceptions and appeals to the supreme and superior courts in civil actions.

Section 4, Act of June 9, 1911, P. L. 865.

Section 8. When the auditors of any borough, shall have charged any person with any sum of money in their report of audit, any taxpayer of said borough, may proceed to enforce collection thereof, for the benefit of said borough, from such person or his sureties, by action or executionary process, or both, upon filing in the proper court of common pleas a bond, with one or more sufficient sureties, conditioned to indemnify said borough from all costs which may accrue in the proceeding undertaken by such taxpayer.

Section 1, Act of May 31, 1913, P. L. 394.

Section 9. It shall be lawful for any board of borough auditors, in case of a disagreement with any official or board of officials whose accounts they are required to audit, to employ an attorney. Such attorney shall not be employed until reasonable effort to reach an agreement has been made, and only after notice of their intention shall be given to the said official or board of officials. The compensation for such attorney shall be fixed by the board of auditors; but it shall in no case exceed the sum of ten dollars per day, nor shall the total compensation in any case in dispute be more than thirty dollars: Provided, That whenever an appeal is taken to the courts for decision, the court shall fix the additional compensation for said attorney.

Section 1, Act of April 27, 1909, P. L. 261.

Section 10. The compensation for said attorney, as provided in the preceding section, shall be paid out of the fund whose settlement is in dispute, by a warrant drawn by said auditors upon the treasurer of such fund, immediately upon the final settlement of the account.

Section 2, Act of April 27, 1909, P. L. 261.

Section 11. Each auditor shall receive two dollars per diem for each day necessarily employed in the duties of his office, to be paid by the borough.

Part of Section 1, Act of May 3, 1909, P. L. 392.

Section 12. In case of any neglect or refusal to comply with the provisions of the preceding sections, the auditors so neglecting or refusing shall pay a penalty of one hundred dollars; to be recovered in the same manner as debts of like amount are, by the law, recoverable, by suit instituted in the name of the borough, upon the complaint of any taxpayer of the same; and the proceeds thereof to be paid into the treasury of the borough.

Section 6, Act of May 3, 1909, P. L. 392.

CHAPTER VII.

ARTICLE V.

CONTROLLER.

Section 1. The qualified electors of every borough in this Commonwealth shall, at the municipal election held in November, one thousand nine hundred and seventeen, and every four years thereafter, elect a borough controller, who shall be a competent accountant, and shall have been a resident of the borough and elector thereof for at least four years prior to his election, who shall hold his office for the term and period of four years from the first day of January succeeding his election, and until his successor is duly qualified. He shall superintend the fiscal concerns of the borough, and shall manage the same in the manner required by the laws of this Commonwealth, and the ordinances and resolutions of the borough councils in accordance therewith. He shall examine, audit, and settle all accounts, whatsoever, in which the borough is concerned either as debtor or creditor, where provision for the settlement thereof is made by law; and where no such provision, or an insufficient provision, has been made, he shall examine such accounts, and report to the borough councils the facts relating thereto, with his opinion thereon. He shall have authority to administer oaths or affirmations in relation to any matter touching the authentication of every account with, or claim or demand against, the borough, but shall not be entitled to receive any fee therefor.

Section 1, Act of June 12, 1913, P. L. 499.

Section 2. The borough controller shall keep a regular set of books, in which shall be opened and kept as many accounts, under appropriate titles, as may be necessary to show separately and dis-

tinctly all the estates and property, whatsoever, real and personal, vested in the borough; all trusts in the care of the same, all debts due to and owing by the borough, all the receipts and expenditures of the various departments of the borough government, and all appropriations made by council, and the sums under the same, respectively.

Section 2, Act of June 12, 1913, P. L. 499.

Section 3. He shall have the supervision and control of the accounts of all departments, bureaus, and officers of the borough who shall collect, receive or disburse the public moneys, or who are charged with the management or custody thereof; shall audit their respective accounts, and may at any time require from any or all of them a statement in writing of any and all moneys or property of the borough in their hands, or under their control; and he shall, immediately upon the discovery of any default, irregularity, or delinquency, report the same to the borough council. He shall, likewise, audit and report upon the accounts of any such officer upon the death, resignation, removal or expiration of the term, of the said officer.

Section 3, Act of June 12, 1913, P. L. 499.

Section 4. He shall countersign all warrants upon the borough treasurer, the form whereof shall be prescribed by council, and shall not suffer any appropriation made by the borough council to be overdrawn, but no warrant shall be countersigned unless there is money in the treasury to pay the same. In every case in which an appropriation shall be exhausted, and the object of which is not completed, he shall immediately report the fact to the borough council, and accompany such report with a statement of the moneys which have been drawn on such appropriation and the particular purpose for which they are drawn. Whenever a warrant on the treasurer shall be presented to him to be countersigned the person presenting the same shall, if the controller require, produce evidence:—

1. That the amount expressed in the warrant is due to the person in whose favor it is drawn.

2. That the supplies or the service, for payment of which the warrant is drawn, have been furnished or performed according to law and the terms of the contract.

Section 4, Act of June 12, 1913, P. L. 499.

Section 5. Every contract involving an appropriation of money shall designate the item of appropriation on which it is founded, and the estimated amount of the expenditure thereunder shall be charged against such item, and so certified by the controller on the contract before it shall take effect as a contract, and the payments

required by such contract shall be made from the fund appropriated therefor. If the controller shall certify any contract in excess of the appropriation made therefor, the borough shall not be liable for such excess, but the controller and his sureties shall be liable for the same, which may be recovered in an action at law by the contracting party aggrieved. It shall be the duty of the controller to certify contracts for the payment of which sufficient appropriations have been made.

Section 5, Act of June 12, 1913, P. L. 499.

Section 6. The borough controller shall, from time to time, and as often as he may deem expedient or the borough council shall direct, suggest plans to the council for the management and improvement of the borough finances; and he shall make a report, verified by oath or affirmation, to the borough council at the first stated meeting in January in each year, of the public accounts of the borough and of the trusts in its care, exhibiting all the expenditures thereof, respectively,—the sources from which the revenue and funds are derived, and in what manner the same have been disbursed; each account to be accompanied by a statement, in detail, of the several appropriations made by council, the amount drawn on each appropriation, and the balance standing to the debit or credit of such appropriation,—which report shall be published, at the expense of the borough, once a week for two weeks, in a newspaper of general circulation throughout the said borough.

Section 6, Act of June 12, 1913, P. L. 499.

Section 7. In the event of the death, resignation, or removal from office of the borough controller, the court of quarter sessions of the proper county shall fill the said vacancy by the appointment of a person possessing the qualifications for said office as herein provided, and the person so appointed to fill the same shall serve until the first day of January succeeding the municipal election occurring at least two months after the happening of such vacancy, at which election a successor shall be elected for the unexpired term. The borough controller shall, before entering upon the duties of his office, take and subscribe the oath prescribed by section one of article seven of the Constitution of this Commonwealth, and shall give a lawful bond to the borough, with two or more sureties or with a surety company, to be approved by the council, in such sum as they may by ordinance direct, conditioned for the faithful discharge of his official duties. The cost of such bond shall be paid by the borough, as other bills are paid; and the controller shall receive a fixed annual salary, to be provided by ordinance of the council, not to exceed the sum of ten hundred dollars per annum.

Section 7, Act of June 12, 1913, P. L. 499.

Section 8. The foregoing provisions relating to the controller shall not become operative or effective in any boroughs until the council of any borough shall, by ordinance duly passed, accept the provisions hereof.

Section 8, Act of June 12, 1913, P. L. 499.

Section 9. In all boroughs accepting the provisions hereof, as provided in the preceding section, the borough auditors now in office shall continue to hold their offices until the first day of January succeeding the election of a borough controller, after which date the said office shall be, and is hereby, abolished.

Section 9, Act of June 12, 1913, P. L. 499.

CHAPTER VII.

ARTICLE VI.

OFFICERS.

APPOINTED OFFICERS.

(a) GENERAL PROVISIONS.

Section 1. The corporate officers shall receive no compensation for their services in that capacity, excepting such as may be specially authorized by law.

Section 4, Act of April 3, 1851, P. L. 320.

Section 2. If any person appointed by the town council of any borough hereafter incorporated, shall neglect or refuse to take upon himself the duties of the office to which he shall be so appointed, he shall, for the same, forfeit and pay, for the use of the proper borough, the sum of ten dollars, to be recovered as other fines and forfeitures are by this act recoverable.

Section 16, Act of April 1, 1834, P. L. 163.

Section 3. The secretary, treasurer and street commissioner, as well as all other officers who may be appointed by the town council of every borough hereafter incorporated, shall, at such time and times as the town council may direct, render their accounts respectively to the said town council for settlement.

Section 12, Act of April 1, 1834, P. L. 163.

Section 4. When an employe of any borough of this Commonwealth shall be required to give a bond for the faithful performance of his duties, and such bond shall be required to be endorsed by a surety company, it shall be lawful for such borough, to pay the premium on such bond.

Section 1, Act of May 23, 1907, P. L. 225.

(b) TREASURER.

Section 5. The treasurer shall give bond with surety as required by the corporation, before entering upon his duties; he shall keep a just account of all his receipts and disbursements, and shall annually submit his account to the borough auditors, to be audited and examined by them, and shall publish the same in the manner directed by the corporation, and shall pay over all moneys remaining in his hands, and deliver all books, papers, accounts and other things belonging to the corporation, to his successor.

Section 10, Act of April 3, 1851, P. L. 320.

Section 6. The treasurer of the corporation shall perform the duties of township treasurer within the borough, and shall receive such compensation as the corporation shall direct.

Section 11, Act of April 3, 1851, P. L. 320.

(c) SECRETARY.

Section 7. The secretary shall attend all the meetings of the corporation, keep full minutes of their proceedings, transcribe the by-laws, rules, regulations and ordinances adopted, into a book kept for that purpose; and when signed by the presiding officer, shall attest the same, preserve the records and documents of the corporation, keep the seal of the corporation, certify copies of any book, paper, record, by-law, rule, regulation, ordinance or proceeding of the corporation under the seal thereof, which copies so certified shall be good evidence of the act or thing certified, and shall attest the execution of all instruments under the same, record the publication of all enactments, and attest the same by his signature thereto, and shall file or record the proof of service of all notices as required by this act or of supplements hereto, his certificate whereof shall be good evidence of such notice; he shall deliver over to his successor, the seal, and all the books, papers and other things belonging to the corporation.

Section 8, Act of April 3, 1851, P. L. 320.

(d) STREET COMMISSIONER.

Section 8. Whenever two or more boroughs are consolidated under the provisions of Chapter II, Article II, of this act, the street commissioners of each of the said boroughs shall continue in office

as officers of the new borough until the expiration of their respective terms of office. When the terms of office of the street commissioners shall have expired, or are about to expire, the town council shall select some suitable person to be street commissioner of such borough, who shall hold his office until the first Monday of January following, and biennially thereafter on the first Monday of January or within thirty days thereafter, the town council shall select one person as street commissioner of said borough.

Part of Section 1, Act of May 25, 1897, P. L. 88, amending Section 9, Act of June 6, 1893, P. L. 335.

(e) SOLICITOR.

Section 9. That the town council of each and every borough within this Commonwealth, at the time of its biennial organization on the first Monday of January in any even-numbered year, or as soon thereafter as practicable, may elect, by the vote of a majority of the members, one person, learned in the law, who shall be styled the borough solicitor, and shall serve for the term of four years from the first Monday of January of the even-numbered year in or succeeding which he was elected, and until his successor shall be duly qualified, and the said town council shall also fix the compensation he shall be allowed for said term.

Part of Section 1, Act of June 5, 1913, P. L. 409, amending Section 1, Act of April 25, 1907, P. L. 103.

Section 10. Vacancies in said office shall be filled by the town council, for the unexpired term. He shall give a lawful bond to the corporation, with two or more sufficient sureties, or one trust or bonding company, to be approved by the town council, in such sum as they shall by ordinance direct, conditioned for the faithful performance of his official duties as the same are or may be defined by law or ordinance.

All borough solicitors holding office at the date of the approval of this act, whose terms of office expire at any time between the first Monday of January, nineteen hundred and fourteen, and the first Monday of January, nineteen hundred and sixteen, shall continue to hold their offices until the first Monday of January, nineteen hundred and sixteen.

Part of Section 1, Act of June 5, 1913, P. L. 409, amending Section 1, Act of April 25, 1907, P. L. 103.

Section 11. The law matters of the borough shall be under the superintendence, direction, and control of the borough solicitor, and no department of the borough shall employ or retain an additional counsel, in any matter or cause, except with the previous assent or

subsequent ratification of the town council. He shall keep in his office deposited and preserved, all patents, deeds, leases, mortgages and other assurances of title, and all contracts, bonds, books and other evidences of debt, belonging to the borough, unless the town council shall otherwise provide or direct.

Section 2, Act of April 25, 1907, P. L. 103.

Section 12. The borough solicitor shall prepare all bonds, obligations, contracts, leases, conveyances, and assurances to which the borough or any department thereof may be a party, as may be directed by resolution or ordinance; shall commence and prosecute all and every suit or suits, action or actions, brought by the corporations, for or on account of any of the estates, rights, trusts, privileges, claims, or demands of the same; as well as defend all actions or suits against the said corporation or any officer thereof, wherein or whereby any of the estates, rights, privileges, trusts, or ordinances or acts of the corporation, or any department thereof, may be brought in question before any court in this Commonwealth; and shall do all and every professional act, incident to the office, which he may be lawfully authorized or required to do by the chief burgess, or by any ordinance or resolution of the said town council. He shall, whenever required, furnish the council, the committees thereof, the chief burgess, or the heads of departments, with his opinion, in writing, upon any question of law which may be submitted by either of them in their official capacities.

Section 3, Act of April 25, 1907, P. L. 103.

(f) POLICE.

Section 13. The council of any incorporated borough may appoint one or more suitable persons, citizens of this Commonwealth, who shall act as policemen in such borough and shall have the power now possessed by the constables and policemen to arrest persons violating any ordinance of such borough, the violation of which may subject persons to arrest. And the keepers of the jails, lock-ups or station-houses in the counties where the offence was committed for which an arrest may be made are required to receive all persons arrested by such policemen.

Section 1, Act of June 6, 1893, P. L. 327.

Section 14. Such policemen shall, when on duty, severally wear a shield or badge with the words "Borough Police" and the name of the borough for which they are appointed inscribed thereon.

Section 2, Act of June 6, 1893, P. L. 327.

Section 15. Such policemen shall be under the control and direction of the chief burgess or burgess of the borough in which they shall be appointed, as to the time during which, the place where, and the manner in which they shall perform their duties; and they shall receive such compensation (to be paid from the borough treasury) as may be provided by ordinance or resolution of the borough council.

Section 1, Act of June 19, 1913, P. L. 538, amending Section 3, Act of June 6, 1893, P. L. 327, as amended by Act of June 8, 1911, P. L. 720.

Section 16. All boroughs employing policemen within the Commonwealth of Pennsylvania, shall pay to all such policemen a fixed or stipulated salary; and that hereafter it shall not be lawful for any such policeman to charge or accept any fee or other compensation, in addition to his salary, for any service rendered or performed by him of any kind or nature whatsoever pertaining to his office or duties as a policeman, except public rewards and the legal mileage allowed for traveling expenses.

Section 1, Act of July 14, 1897, P. L. 266.

Section 17. Any person employed as a policeman, violating any of the provisions of the preceding section of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding fifty dollars and costs, or undergo imprisonment in the jail of the proper county not exceeding thirty days, or both, at the discretion of the court.

Section 3, Act of July 14, 1897, P. L. 266.

Section 18. It shall be lawful for any policeman residing in any borough, who shall be duly appointed or elected to the office of constable in said borough, or any ward thereof, to hold and exercise said office and to demand and receive all costs, fees and emoluments pertaining thereto, as allowed by law.

Section 1, Act of April 25, 1905, P. L. 309.

Section 19. The policemen of the several boroughs of this Commonwealth are hereby authorized to perform the several duties of high constable: Provided, however, If such policemen receive a salary or stipulated sum for services from the borough, no other compensation shall be allowed; but where such policemen receive no salary or stipulated sum for services, they shall receive the same fees as the high constable now receives for like services.

Section 1, Act of May 24, 1901, P. L. 297.

Section 20. The several boroughs of this Commonwealth, incorporated by general or special laws, shall have power to establish by ordinance a police pension fund to be maintained by an equal and proportionate monthly charge against each member of the police force which shall not exceed annually three per centum of the pay of such member, which fund shall be under the direction of councils or committee to the direction of such officers of the borough as may be designated by councils, and applied under such regulations as councils may by ordinance prescribe for the benefit of such members of the police force as shall receive honorable discharge therefrom by reason of age or disability and the families of such as may be injured or killed in the service, but such allowances as shall be made to those who are retired by reason of the disabilities of age shall be in conformity with a uniform scale.

Section 1, Act of May 24, 1893, P. L. 129.

Section 21. Such ordinance may prescribe a minimum period of continuous service, not less than twenty years, after which members of the force may be retired from active duty, and such members as retired shall be subject to service from time to time as a police reserve until unfitted for such service, when they may be finally discharged by reason of age or disability.

Part of Section 1, Act of May 24, 1893, P. L. 129.

Section 22. Payments made under the provisions of this section shall not be a charge on any other fund in the treasury of the borough, or under its control, save the police pension fund herein provided for. The basis of the apportionment of the pension shall be determined by the rate of the monthly pay of the member at the date of death, honorable discharge, or retirement, and shall not in any case exceed in any year one-half of the annual pay of such member computed at such monthly rate.

Part of Section 1, Act of May 24, 1893, P. L. 129.

Section 23. It shall be competent for any such borough to take by gift, grant, devise or bequest, any money or property, real, personal or mixed, in trust for the benefit of such pension fund, and the care, management, investment and disposal of such trust funds or property shall be vested in such officer or officers of such borough for the time being as the said borough may designate, and such care, management and disposal shall likewise be directed by ordinance and the said trust funds shall be governed thereby, subject to such directions not inconsistent therewith as the donors of such funds and property may prescribe.

Section 2, Act of May 24, 1893, P. L. 129.

Section 24. Whenever any person shall become entitled to receive a benefit from the police pension fund, and shall have been admitted to participate therein, he shall not be deprived of his right to an equal and proportionate participation therein upon the basis upon which he first became entitled thereto, save from one or more of the following causes, that is to say, conviction of a crime or misdemeanor, becoming an habitual drunkard, becoming a non-resident of the State, or failing to comply with some general regulation relating to the management of said fund which may be made by ordinance, and which may provide that a failure to comply therewith shall terminate the right to participate in the pension fund after such due notice and hearing as shall be prescribed by ordinance.

Section 3, Act of May 24, 1893, P. L. 129.

CHAPTER VII.

ARTICLE VII.

BUREAU OF MINE INSPECTION AND SURFACE SUPPORT.

Section 1. Every borough within the limits of the anthracite region of this Commonwealth may, by ordinance, create a Bureau of Mine Inspection and Surface Support.

Section 1, Act of July 26, 1913, P. L. 1439.

Section 2. Said bureau shall consist of one practical mining engineer, to be appointed by the burgess of such borough, with the consent of councils, and such other assistants, clerks, and employes as may be provided for by councils, and shall be paid such compensation as councils may provide.

Section 2, Act of July 26, 1913, P. L. 1439.

Section 3. The members of the Bureau of Mine Inspection and Surface Support, shall have the right and power to enter, inspect, examine, and survey any mine or colliery within the limits of the borough, at all reasonable times, either by day or night, but not so as to impede or obstruct the workings of the mine or colliery; and shall have power to take such other persons as may be necessary for the purpose of making such examination or survey; and the owner, operator, or superintendent of such mine or colliery is hereby required to furnish the means necessary for such entry, inspection, examination, survey, and exit.

Section 3, Act of July 26, 1913, P. L. 1439.

Section 4. The owner, operator, or superintendent, of every coal-mine or colliery shall, within three months after the passage and approval of an ordinance by any borough in this Commonwealth creating a Bureau of Mine Inspection and Surface Support, authorized by this act, make or cause to be made and furnished to the Bureau of Mine Inspection and Surface Support an accurate map or plan of the workings or excavations of such coal-mine or colliery, on a scale of one hundred feet to the inch; which map or plan shall exhibit the workings or excavations in every seam of coal on a separate sheet, and the tunnels and passages connecting with such workings or excavations. It shall state in degrees the general inclination of the strata, with any material deflection therein in said workings or excavations, and shall also state the tidal elevations of the bottom of each and every shaft, slope, tunnel, and gangway, and of any other point in the mine or on the surface where such elevation shall be deemed necessary by the Bureau of Mine Inspection and Surface Support. The map or plan shall show the number of the last survey station, and date of each survey on the gangways or the most advanced workings.

Section 4, Act of July 26, 1913, P. L. 1439.

Section 5. Every mine owner, operator, or superintendent shall place or cause to be placed upon the map of the Bureau of Mine Inspection and Surface Support of each borough, at least once in every three months, the plan of all extensions made in any mine, within the limits of such borough, during the three months preceding, except those made immediately within thirty days from the time of placing such extensions upon said map.

Section 5, Act of July 26, 1913, P. L. 1439.

Section 6. It shall be unlawful for any person, firm, association, or corporation to dig, mine, remove, or carry away the coal, rock, earth, or other minerals or materials forming the natural support of the surface, beneath the streets, avenues, thoroughfares, courts, alleys, places, and public highways of any borough within this Commonwealth, to such an extent and in such a manner as to thereby remove the necessary adequate support of the surface against subsidence, without having first placed, built, erected, and constructed sufficient adequate and permanent artificial support, in place and stead thereof, to maintain, uphold, and preserve the stability of the surface of said streets, avenues, thoroughfares, courts, alleys, places and public highways.

Section 6, Act of July 26, 1913, P. L. 1439.

Section 7. Any person, being the general manager, superintendent, or person in charge of the work of any corporation, firm, or as-

sociation, violating any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof, before any justice of the peace, within such municipality, shall be sentenced to pay a fine not exceeding one thousand dollars, or to undergo imprisonment in the county jail for a period not exceeding ninety days, or both, for each offense; each such fine shall be paid into the treasury of the proper borough.

Section 7, Act of July 26, 1913, P. L. 1439.

Section 8. The councils of the boroughs of this Commonwealth are hereby authorized to enact such ordinances as may be necessary for the proper enforcement of the provisions of this article.

Section 8, Act of July 26, 1913, P. L. 1439.

CHAPTER VIII.

ELECTIONS—VACANCIES IN OFFICE.

ARTICLE I.

NUMBER, TERM AND TIME OF ELECTION OF OFFICERS.

Section 1. The election for officers shall be held at the time and place for the holding of municipal elections.

Section 2. It shall be lawful for the electors of the borough to elect:

1. In boroughs not divided into wards, seven councilmen, a chief burgess, a High Constable, and three Auditors or a Controller; to be chosen by the electors at large.

Section 1, Act of May 22, 1895, P. L. 109; Sec. 17, Act of April 3, 1851, P. L. 320, and Act of June 12, 1913, P. L. 499.

2. In boroughs divided into wards, not less than one nor more than three councilmen in each ward to be chosen by the electors of each ward, and not at large, and shall be residents from the ward from which they are elected; and a chief burgess, a high constable and three auditors or a controller to be chosen by the electors at large.

Sec. 1, Act of April 13, 1903, P. L. 171; Sec. 1, Act of May 10, 1878, P. L. 51, and Act of June 12, 1913, P. L. 499.

Section 3. The court of quarter sessions may, after once having fixed the number of councilmen, increase the same on petition of citizens of any such borough, to any number not exceeding three for each ward.

Part of Sec. 1, Act of May 13, 1889, P. L. 193, amending Sec. 4, Act of May 14, 1874, P. L. 159; and part of Sec. 1, Act of April 13, 1903, P. L. 171.

Section 4. The several courts of quarter sessions of the peace shall have power and authority, on the petition of twenty or more citizens of any borough in which, by virtue of any act of assembly or decree of court, there are now three members of town council to be elected in each ward, after due notice to such town council to decrease the number of members of town council to be elected in each of said wards to two.

At each municipal election hereafter, the qualified electors of each ward shall elect one councilman to hold office for a term of four years from the first Monday of January next succeeding his election.

Sec. 1, Act of July 9, 1897, P. L. 216.

Section 5. Electors only shall be eligible to borough offices.

Sec. 18, Act of April 3, 1851, P. L. 320.

Section 6. The officers elected shall serve until others are duly elected and qualified.

Sec. 19, Act of April 3, 1851, P. L. 320.

Section 7. Certificates of election of all borough officers shall be filed among the records of the borough.

Sec. 20, Act of April 3, 1851, P. L. 320.

Section 8. At the municipal election to be held in the year one thousand nine hundred and fifteen there shall be elected in each borough, a sufficient number of councilmen to equal one half of the entire number of which such council is legally composed, to serve from the first Monday of January next succeeding for a term of four years, and where such entire number is seven, nine or eleven then sufficient to constitute, three, four or five as the case may be. The aforesaid councilmen to be elected in the year one thousand nine hundred and fifteen, being successors to those elected in the years one thousand nine hundred and eleven and one thousand nine hundred and thirteen whose terms as now provided by law expire on the first Monday of January one thousand nine hundred and sixteen. All councilmen whose terms under the provisions of the law expire on the first Monday of January, one thousand nine hundred and eighteen,

shall continue to hold their office until the first Monday in January, one thousand nine hundred and eighteen, as now provided, and their successors shall be elected at the municipal election in the year one thousand nine hundred and seventeen, to serve from the first Monday of January next succeeding, for a term of four years. Biennially thereafter, at the municipal election, a sufficient number of councilmen shall be elected, for a term of four years, to fill the places of those whose terms, under the provisions of this act, shall expire on the first Monday of January next following such election.

Drafted from Sec. 1, Act of May 20, 1913, P. L. 268, amending Sec. 4, Act of June 19, 1911, P. L. 1047.

Section 9. Whenever the court of quarter sessions shall divide any borough into wards, erect two or more wards or parts of two or more wards into one ward, or divide any ward already erected into two or more wards as provided in chapter III, article III, of this act, and when the report in such case shall have been confirmed by the court, it shall at the same time decree the election of an equal number of councilmen in each of the wards, in such manner as not to interfere with the terms of those theretofore elected. In decreeing such election, when the entire number of council shall be composed of an equal number, the decree shall be so made that one-half of the entire number shall thereafter be elected at each municipal election. When the entire number of council shall be composed of an odd number, the court shall divide such council into two classes, and shall make its decree so that one half of the entire number of councilmen less one shall, as soon as possible, take their office in a year divisible by four and the remaining number of councilmen shall take their office in a year not divisible by four. The apportionment shall be so made by the court that there shall be equal or as nearly equal as possible, representation by wards in each class. Biennially thereafter at each municipal election a sufficient number of councilmen shall be elected, for the term of four years, to fill the places of those whose terms, shall expire on the first Monday of January next following such election.

Drafted from Sec. 1, Act of May 13, 1889, P. L. 193, amending Sec. 4, Act of May 14, 1874, P. L. 159; Sec. 1, Act of March 24, 1877, P. L. 47, and Sec. 1, of the Act of May 20, 1913, P. L. 268, amending Sec. 4, Act of June 19, 1911, P. L. 1047.

Section 10. Upon the division of any borough into wards, or the erection of a new ward or wards in any borough, it shall be lawful for the court decreeing such division, in all cases where the number of councilmen of such borough cannot be equally divided among the

respective wards created by such division, to increase the number of councilmen to and not exceeding such number as will enable the court to make an equal apportionment of the same among the respective wards.

Sec. 1, Act of Feb. 17, 1876, P. L. 6.

Section 11. Whenever the court of quarter sessions shall divide any borough into wards, it shall appoint for each ward such judges and inspectors of election, to hold the first election after such division, as are, by law, required.

Part of Sec. 5, Act of May 10, 1878, P. L. 51.

Section 12. Whenever two or more boroughs are consolidated as provided in chapter II, article II, the members of the town council of each of said boroughs shall be members of the town council of the new borough from the wards in which they respectively reside, and shall hold their office until the expiration of their terms.

In consolidated boroughs divided into wards, the number of councilmen in each ward shall be three.

At the first municipal election next succeeding such consolidation, the qualified electors of such borough shall elect a sufficient number of councilmen to equal one-half of the entire number of which such council is legally composed, to serve for a term of four years from the first Monday of January next succeeding their election, and where such entire number is seven, nine, or eleven and where the year in which such officers shall take office shall be divisible by four, then sufficient to constitute three, four or five as the case may be; and where such year is not divisible by four, then sufficient to constitute four, five or six. At the second municipal election succeeding such consolidation the remaining number, of councilmen to which such consolidated borough is entitled, shall be elected for a term of four years: Provided, That in such boroughs, divided into wards, the council shall by lot, prior to the first municipal election succeeding such consolidation, apportion the councilmen to be elected as above provided, so that there shall be equal, or as nearly equal as possible, representation by wards.

Biennially thereafter at each municipal election a sufficient number of councilmen shall be elected, for a term of four years, to fill the places of those whose terms shall expire on the first Monday of January next following such election.

Drafted from Sec. 5, Act of June 6, 1893, P. L. 335, and Sec. 1, Act of May 20, 1913, P. L. 268, amending Sec. 4, Act of June 19, 1911, P. L. 1047.

Section 13. The purpose of the preceding sections being that, as nearly as possible, one-half of the councilmen of each borough shall be elected at each municipal election for a term of four years.

Part 1, Sec. 1, Act of May 20, 1913, P. L. 268, amending Sec. 4, Act of June 19, 1911, P. L. 1047.

Section 14. The qualified electors of every borough, shall, at the municipal elections in the year one thousand nine hundred and seventeen and every four years thereafter, elect a properly qualified person for chief burgess, who shall hold office for a term of four years from the first Monday of January next succeeding his election.

Drafted from Sec. 1, Act of May 23, 1893, P. L. 113, Constitutional amendments of 1909, and the Act of March 2, 1911, P. L. 8.

Section 15. Whenever two or more boroughs are consolidated under the provisions of Chapter II, Article II, the chief burgess of that borough which shall have been first incorporated shall be the chief burgess of the new borough, to serve until the expiration of his term. The chief burgess of the other borough shall become a member of the town council of the new borough from the ward in which he shall reside and shall continue a member thereof until the expiration of his term of office. At the first municipal election for the election of chief burgess in boroughs, a chief burgess shall be elected in such new borough to hold his office for a term of four years from the first Monday of January next succeeding such election and every fourth year thereafter the qualified electors of said borough shall elect one person to be chief burgess.

Drafted from Secs. 5 and 6 of Act of June 6, 1893, P. L. 335, Constitutional amendments of 1909, and Act of March 2, 1911, P. L. 8.

Section 16. The qualified electors of every borough shall, at the municipal election in the year one thousand nine hundred and fifteen, and every fourth year thereafter, elect a properly qualified person for high constable, to serve for a term of four years.

Drafted Sec. 1, Act of June 26, 1895, P. L. 375, and Constitutional amendments of 1909, and Act of March 2, 1911, P. L. 8.

Section 17. The qualified voters of every borough shall elect, at the municipal elections, in the year one thousand nine hundred and fifteen one auditor, and in the year one thousand nine hundred and seventeen two auditors, to serve from the first Monday of January next succeeding their elections for a term of four years. Biennially thereafter one or two auditors, as the case may be, shall be

elected for a term of four years, to fill the places of those whose terms shall expire on the first Monday of January next following such election.

Drafted from Sec. 17, Act of April 3, 1851, P. L. 320, Sec. 1, Act of May 10, 1878, P. L. 51, Constitutional amendments of 1909, and Act of March 2, 1911, P. L. 8.

Section 18. The term of office of all borough treasurers and street commissioners that are elected by the voters of the borough at large, in the several boroughs of the Commonwealth, be and the same is hereby fixed at four years.

Sec. 1, Act of May 6, 1909, P. L. 440, Constitution amendments of 1909.

Section 19. Whenever hereafter any borough shall be incorporated from a township as provided in Chapter II, Article I, or whenever a borough is formed by the division of a borough as provided in Chapter II, article IV, or whenever a borough is formed by the detachment of territory as provided in chapter II, article IV, section 6; and a special election is ordered by the court for the election of borough officers, the officers so elected shall hold their office until the first Monday of January next succeeding the municipal election at which such officers are elected as provided in this article, and thereafter such officers shall be so elected that the time of their election, and in the case of councilmen and auditors, the number to be elected at any municipal election, shall coincide with the time and number elected at such municipal elections by boroughs incorporated prior to the passage of this act, as provided in sections 8, 14, 16 and 17 of this article.

See Comm. v. Galloway, 16 Pa., C. C. 442.

Section 20. If any person duly elected as burgess, member of town council or high constable, and having received notice thereof, shall refuse or neglect to take upon himself the execution of the said office to which he shall have been elected, or having taken upon himself such duties, shall neglect to discharge the same according to law, every person so refusing or neglecting shall, for every such offence, forfeit and pay the sum of twenty dollars, which fine and all other fines and forfeitures incurred and made payable in pursuance of this act or any of the by-laws and ordinances of any borough, shall be for the use of the proper borough, and shall be recovered before any justice of the peace, in the same manner that debts not exceeding three hundred dollars are by law recoverable, and when so recovered shall be forthwith paid to the treasurer of said borough, and all other money received by any officer for the use of said borough shall be forthwith paid to the said treasurer.

Sec. 6, Act of April 1, 1834, P. L. 163.

CHAPTER VIII.

ARTICLE II.

FILLING OF VACANCIES.

Section 1. Vacancies in any of the offices of town council may be filled by appointments to be made by the court of quarter sessions; but any appointment so made shall be of an elector of said town, who shall have voted for the officer or person whose place is to be filled; when one or more vacancies shall exist from a failure to elect at an election, or two or more vacancies shall exist in the same office from any other cause, the said court may order an election to fill the same, at such time, and upon such reasonable notice, as the judges thereof may think proper.

Section 5, Act of March 4, 1870, P. L. 344, the provisions of which were extended to boroughs generally by Section 3, Act of June 2, 1871, P. L. 283.

Section 2. The members of town councils shall have power to fill any vacancy which may occur therein by death, resignation, removal from the borough, or otherwise, until the next election for members of town council, when such vacancy shall be filled by electing a qualified citizen to supply the same for the balance of the unexpired term: Provided, That the qualified voters shall designate on their ballots that the person or persons thereon named are voted for to fill an unexpired term.

Section 4, Act of May 22, 1895, P. L. 109.

Section 3. Upon the petition of the councils of any borough to the court of quarter sessions of the proper county, representing that any vacancy or vacancies in their own body, or in any other borough offices, exists, said court shall have the right and authority to fill such vacancy by appointment; said appointees to hold office until the succeeding municipal election: Provided, That this section shall not be construed to change the manner of filling any such vacancy, in any borough where such authority now exists, by general or special law.

Section 1, Act of March 24, 1877, P. L. 36, No. 31.

Section 4. If any vacancy shall take place in the office of burgess, after any ward, district or borough election, by reason of the erection of any new ward, district or borough, or from the neglect or refusal of any person elected to perform the duties of the office, or

by death, resignation or otherwise, the court of quarter sessions of the proper county, upon petition from the town council or any citizen who is a resident of said borough setting forth the fact that a vacancy does exist, shall appoint a suitable person to fill said vacancy for the unexpired term.

Secion 1, Act of July 2, 1895, P. L. 433, Comm. v. Galloway 16 Pa. C. C. 442.

Section 5. Whenever a vacancy may occur in the office of high constable in any borough in the Commonwealth of Pennsylvania, whether created by general or special law, by reason of failure to elect, failure to qualify, incompetency, death, resignation, removal, or for any other cause, it shall be the duty of the court of quarter sessions of the peace of the county in which such borough may lie, to appoint a suitable person, who, upon being qualified as required by law, shall serve as the high constable thereof for the unexpired term, so vacant.

Section 1, Act of March 11, 1903, P. L. 22.

Section 6. In case of the death, removal or resignation of any auditor, the judges of the court of quarter sessions of the proper county, shall appoint a suitable person to fill the vacancy, for the unexpired term of the person whose place is vacant.

A draft from Section 2, Act of March 11, 1842, P. L. 62.

See Jayne v. Smith 9 Pa. C. C. 494, and Tricketts Borough Law, Section 80.

CHAPTER IX.

PARKS—SHADE TREES—FORESTS.

ARTICLE I.

PARKS, PARKWAYS AND PLAYGROUNDS.

Section 1. It shall be lawful for, and the right and power are hereby conferred upon boroughs of this Commonwealth, to enter upon, take, use, and appropriate by the right of eminent domain, and to acquire by gift, devise, purchase, lease, and otherwise, private property, for the purposes of making, enlarging, extending, and maintaining public parks, parkways, and playgrounds.

Part of Section 1, Act of May 20, 1913, P. L. 257, amending Section 1, Act of May 3, 1909, P. L. 401.

Section 2. It shall be lawful for, and the right and power are hereby conferred upon boroughs to improve, maintain, and regulate all public parks, parkways, and playgrounds within their respective territorial limits.

Section 3, Act of May 3, 1909, P. L. 401.

Section 3. No appropriation or appropriations by right of eminent domain, lease or leases, purchase or purchases, pursuant to section one of this article, shall be made by any borough whereby it shall, within any period of three years, obligate itself to pay in the aggregate, any money or moneys in excess of one and one-half mills on the dollar on the valuation assessed on all property, offices, professions, and persons, in such borough, upon which county taxes are rated and levied, without the consent of a majority of the qualified electors obtained at an election as hereinafter provided.

Part of Section 1, Act of May 20, 1913, P. L. 257, amending Section 1, Act of May 3, 1909, P. L. 401.

Section 4. No borough shall have power to exercise the right of eminent domain for the appropriation of any land which is not within the territorial limits thereof.

Part of Section 1, Act of May 20, 1913, P. L. 257, amending Section 1, Act of May 3, 1909, P. L. 401.

Section 5. Whenever any borough shall by ordinance provide for taking, using, and appropriating by right of eminent domain, or purchasing or leasing, any private property for the purposes aforesaid, and the value of such property or the price of the rental thereof, as the case may be, shall alone, or when added to the amount of liability incurred for the purposes aforesaid within the preceding three years, exceed one and one-half mills on the dollar of valuation, the corporate authorities shall cause the question of such taking and appropriating, purchasing or leasing, to be submitted to the qualified electors of the borough at the municipal or general election next occurring after the expiration of forty days from the date of such ordinance.

Part of Section 2, Act of May 3, 1909, P. L. 401.

Section 6. The corporate authorities of the borough shall give public notice of the proposed submission of such question by weekly advertisements in the newspapers not exceeding three in such borough, for four weeks next preceding the day of the election; and, if no newspaper be published therein, by at least twenty printed handbills, posted in the most public parts thereof, at least twenty-one days before the day of such election.

Part of Section 2, Act of May 3, 1909, P. L. 401.

Section 7. For the purpose of having such question appear upon the ballot the corporate authorities of the borough shall certify the question to the county commissioners, at least twenty-one days before the day of the election. The question may be stated substantially as follows:—

"Shall the borough of ———— acquire by purchase or condemnation, or both, at a price and cost not exceeding ———— dollars (or by lease for not more than ——— years, at an annual rental of not more than ———— dollars), property for the purpose of making (or of enlarging or of extending) public parks, parkways and playgrounds, within the locality bounded by ————."

The corporate authorities may, however, at their discretion, omit the designation of the locality.

Part of Section 2, Act of May 3, 1909, P. L. 401.

Section 8. The result of the vote on such question shall be ascertained and certified in the same manner as the vote on the election of officers named on the same ballots. No such question, which shall have been determined negatively at any such election, shall be again submitted within one year.

Part of Section 2, Act of May 3, 1909, P. L. 401.

Section 9. The taking, using, and appropriating by the right of eminent domain of private property, for the purpose of making, enlarging, extending, and maintaining public parks, parkways, and playgrounds, is hereby declared to be taking, using, and appropriating such private property for public use; and for all damage done or suffered by, and compensation which shall accrue to, the owner or owners of such property, by reason of the taking, appropriating, and using of the same for the purposes aforesaid, the funds of the borough, which may be raised by taxation, shall be pledged and deemed as security.

Section 4, Act of May 3, 1909, P. L. 401.

Section 10. If the compensation and damages arising from such taking, using and appropriating of private property for the purposes aforesaid, cannot be agreed upon by the owners thereof and such borough, it shall be lawful for such borough to tender its bond as security to the party claiming or entitled to any damages, or to the attorney or agent of any absent person, or to the agent or other officer of a corporation, or to the guardian or committee of any person under legal incapacity, the condition of which shall be that the said borough shall pay or cause to be paid such amount of damages as the party shall be entitled to receive, after the same shall have been agreed upon or assessed in the manner provided in this article. In case the party or parties claiming damages refuse or do

not accept the security so tendered, the said borough shall then give the party, his or their agent, attorney, guardian or committee, at least ten days' written notice of the time when the same will be presented in any court of common pleas of the county in which the land so to be acquired, taken, used or appropriated, is situate, for approval; and thereafter, the said borough may present its bond to said court of common pleas, and when approved, the said bond shall be filed in said court for the benefit of those interested, and recovery may be had thereon for the amount of damages ascertained or finally determined, if the same be not paid or cannot be made by execution on the judgment in the issue formed to try the question, and upon the approval of said security, said borough may enter into possession, take, hold, use and enjoy said land for the purposes aforesaid forever.

Section 2, Act of June 8, 1895, P. L. 188.

Section 11. Wherever any of said boroughs, in the exercise of the right hereinbefore conferred, shall acquire, take, use, or appropriate private property for public park, parkway or playground purposes, and cannot agree with the owner or owners, lessee or lessees, of such private property for the compensation for the property appropriated and the damages done; or when, by reason of the absence or legal incapacity of any such owner or owners, lessee or lessees, no such compensation can be agreed upon; any court of common pleas of the county in which the property so taken, used, and appropriated is situate, or any law judge thereof in vacation, on application thereto by such borough, or any person interested in such land and property, shall appoint three discreet and disinterested freeholders as viewers, and appoint a time, not less than twenty nor more than thirty days thereafter, when said viewers shall meet upon the property and view the same and the premises affected thereby.

Part of Section 5, Act of May 3, 1909, P. L. 401.

Section 12. The said viewers shall give at least ten days' notice of the time and place of their first meeting, to the owners of said property, or to their agents, attorneys, or representatives, by writing served upon them in the manner provided by law for the service of summons in personal actions, if they reside within the county in which such borough is located, otherwise by handbills posted upon the premises, or by such other notice as the court shall direct.

Part of Section 5, Act of May 3, 1909, P. L. 401.

Section 13. The said viewers, having been duly sworn or affirmed faithfully, justly and impartially to decide and true report to make concerning all matters and things to be submitted to them, in

relation to which they are authorized to inquire under the provisions of this article, and having viewed the premises or examined the property, shall hear all parties interested and their witnesses; and, having due regard to the advantages and disadvantages, shall estimate and determine the damages for property taken, used, or appropriated, and to whom the same are payable; and, having so estimated and determined the damages, they shall prepare a schedule thereof, and give notice, in the manner above provided, to the parties interested, of a time not less than ten days thereafter, and of a place where said viewers will meet and exhibit said schedule and hear all exceptions thereto and evidence. After making whatever changes are deemed necessary, the said viewers shall make report to the court, showing the damages allowed, if any, and to whom payable, and file therewith a plan showing the properties taken, used and appropriated.

Section 6, Act of May 3, 1909, P. L. 401.

Section 14. When said report is filed, notice thereof shall be given within ten days by publication once, in a newspaper published in such borough or township, if any; otherwise in a newspaper published in the county-seat of such county. Said notice shall state the date of filing the report, and shall contain a schedule of the damages shown therein, and shall further state that, unless exceptions are filed within thirty days from the date of filing, the said report will be confirmed absolutely.

Section 7, Act of May 3, 1909, P. L. 401.

Section 15. Upon the report of said viewers being filed in said court, any party may, within thirty days thereafter, file exceptions to the same; and the court shall have power to confirm said report, or to modify, change, or otherwise correct the same, or refer the same back to the same or new viewers, with like power as to their report.

Part of Section 8, Act of May 3, 1909, P. L. 401.

Section 16. When said report is first filed in court, the prothonotary shall mark the same confirmed nisi, and in case no exceptions are filed thereto, within said thirty days, he shall enter a decree (as of course) that the said report is confirmed absolutely.

Part of Section 8, Act of May 3, 1909, P. L. 401.

Section 17. If exceptions are filed which affect the entire report, the same shall not be confirmed absolutely as to any part thereof until the said exceptions have been finally disposed of by the court; but when exceptions are filed that only go to or affect some particular assessment of damages, and which in the consideration and final

disposal thereof will not affect the assessments made in favor of other parties, in such case, and in cases where any appeal or appeals may have been taken to the court of common pleas, with demand for trial by jury, by less than all of the parties having a right to take such appeals, the court may confirm all such assessments as to which no exceptions have been filed or appeal taken.

Part of Section 8, Act of May 3, 1909, P. L. 401.

Section 18. Within thirty days from the filing of any report in court, any party whose property is so taken, used, or appropriated may appeal to the court of common pleas, and demand a trial by jury; and in case the party appellant does not obtain a verdict more favorable than was the final report of viewers the said appellant shall not recover any costs on the appeal.

Section 9, Act of May 3, 1909, P. L. 401.

Section 19. The final confirmation of the report of the viewers shall operate as a judgment against the borough, in favor of the parties to whom damages have been awarded by the report, or by so much of the report as is so confirmed for the amount of such damages, with interest from the date of filing the report.

Part of Section 10, Act of May 3, 1909, P. L. 401.

Section 20. From the confirmation of the viewers' report, and from the final judgment on the verdict in cases of trial by jury, either party may have an appeal to the superior court or supreme court, as in other cases.

Part of Section 10, Act of May 3, 1909, P. L. 401.

Section 21. The powers and duties of the said viewers may be exercised and performed by any two of them. They shall have power to administer oaths, and to adjourn their hearings from day to day as they may find necessary. The notices required to be given by the viewers may be served by any one authorized by them to make such service. The said court of common pleas shall have power to order what notices shall be given in connection with any part of said proceedings, and make all and such orders as it may deem requisite, and may, by rule or otherwise, prescribe the form of the pleadings. The viewers provided for in the foregoing sections may be appointed before or at any time after the entry upon, taking, or appropriation of any property under this act.

The costs incurred in the proceedings aforesaid shall be defrayed by such township or borough; and each of said viewers shall be entitled to a sum not exceeding five dollars per day, or such sum as

shall be decided upon by the proper court, not exceeding five dollars per day, for every day necessarily employed in performance of the duties herein prescribed.

Section 11, Act of May 3, 1909, P. L. 401.

Section 22. In case any borough shall repeal any ordinance passed, or discontinue any proceeding taken, providing for the taking and appropriation of any property for the purposes aforesaid, prior to the entry upon and taking of, or injury to, such property, and within thirty days after the filing of the report of viewers assessing damages, the said borough shall not thereafter be liable to pay any damages which have been or might have been assessed; but all costs upon any proceeding had thereon shall be paid by such borough, together with any actual damage, loss, or injury sustained by reason of such proceedings.

Section 12, Act of May 3, 1909, P. L. 401.

Section 23. Wherever prior to the first day of June, one thousand nine hundred and eleven, any borough has acquired any land outside of the limits of such borough, for park purposes, such borough shall have power to own and possess such land for park purposes, and to lay out and maintain same, and to appropriate money for the laying out and maintenance of same.

Section 1, Act of June 1, 1911, P. L. 544.

Section 24. Every borough shall have a general plan of its parks and playgrounds, which plan shall be filed in the office of the engineer or other proper office of the borough, and all subdivisions of property thereafter made, shall conform thereto. The location of parks or playgrounds, laid out and confirmed by authority of councils, shall not afterwards be altered without the consent of councils; and no map or plot of parks or playgrounds, shall be entered or recorded in any public office of the county in which said borough is situated until approved by councils.

Part of Section 1, Act of July 22, 1913, P. L. 902, amending Section 12, Act of May 16, 1891, P. L. 75.

Section 25. No person shall hereafter be entitled to recover any damages for the taking for public use of any buildings or improvements of any kind which may be placed or constructed upon or within the lines of any located park or playground, after the same shall have been located or ordained by councils.

Part of Section 1, Act of July 22, 1913, P. L. 902, amending Section 12, Act of May 16, 1891, P. L. 75.

CHAPTER IX.

PARKS—SHADE TREES—FORESTS.

ARTICLE II.

SHADE TREES.

(a) ESTABLISHMENT OF SHADE TREE COMMISSION.

Section 1. In boroughs of the Commonwealth of Pennsylvania there may be appointed, in the manner hereinafter provided, a Commission of three freeholders, to be known and designated as the Shade-Tree Commission of the said borough, who shall serve without compensation, and who shall have exclusive and absolute custody and control of, and power to plant, set out, remove, maintain, protect, and care for, shade-trees, on any of the public highways of the boroughs, the cost thereof to be provided for in the manner hereinafter stated: Provided, That in boroughs, in which a commission for the care of public parks shall have been created, said commission shall, upon the acceptance of this article, as provided in section two, be charged with the duties of the commission as above provided, and shall, for that purpose, be possessed of all the powers herein mentioned and granted.

Section 1, Act of May 31, 1907, P. L. 349.

Section 2. The councils of any borough may, accept the provisions of this article relative to shade tree commissions, and when such shade-tree commissioners are appointed, or, in their stead, the duties and powers herein provided have been devolved upon an existing park commission, then, from that time and in that event, so much of this article as relates to the subject of shade tree commissions, shall be in full force and application in such borough, so accepting; and such commissioners shall be appointed, for terms of three, four, and five years, respectively, and, on the expiration of any term, the new appointment shall be for five years, and any vacancies shall be filled for the unexpired term only; and the said appointment shall be made by the chief burgess.

Part of Section 2, Act of May 31, 1907, P. L. 349.

Section 2. The shade tree commission shall, twice in every year, report in full its transactions and expenditures for the borough fiscal year then last ended, to the authority under and by which it was

appointed: Provided, That an existing park commission, acting under this enactment, may embody its report in its regular report to the councils, as by law or ordinance provided.

Part of Section 2, Act of May 31, 1907, P. L. 349.

Section 4. When such shade tree commissioners, or park commissioners so acting, shall propose the setting out or planting or removing of any shade trees, or the material changing of the same in any highway, they shall give public notice of the time and place appointed for the meeting at which such contemplated work is to be considered, specifying in detail the highways, or portion thereof, upon which trees are proposed to be planted, removed, or changed, in one or more—not exceeding two in all—of the newspapers published in said borough, once each week for at least two weeks, prior to the date of said meeting.

Section 3, Act of May 31, 1907, P. L. 349.

Section 5. The cost of planting, transplanting, or removing any trees in any highway, and of suitable guards, curbing, or grating for the protection thereof, when necessary, and of the proper replacing of any pavement or sidewalk necessarily disturbed in the doing of such work, shall be borne by the owner of the real estate in front of which such trees are planted, set out, or removed; and the cost thereof as to each tract of real estate shall be certified by the commissioners to the presidents of the councils and also to the person having charge of the collection of taxes for the said borough; and upon the filing of said certificates, the amount of the cost of such improvement, of which notice shall also be given to each property owner involved, accompanied with a copy of the aforesaid certificate, together with a notice of the time and place for payment, shall be and become a lien upon said real estate, in front of which said trees have been planted, set out, or removed; said lien to be collectible, if not paid in accordance with notice as herein provided, in the same manner as other liens for taxes are now collectible against the property involved.

Section 4, Act of May 31, 1907, P. L. 349.

Section 6. The cost and expense of caring for said trees after having been planted or set out, and the expense of publishing the notices provided for in section four shall be borne and paid by the borough. The needed amount shall each year, in due time, be certified by the shade tree commissioners to the proper authorities charged with the assessment of taxes in said boroughs, and shall be drawn against as required by said commissioners, in the same manner as moneys appropriated for borough purposes, are now drawn against in said boroughs: Provided, That the councils of any bor-

ough accepting the provisions of this article may provide for the expense of the maintenance of trees on highways, in accordance with the provisions of this section by actual appropriation, equal to the amount certified to be required by the said Commission, in lieu of the specific assessment above authorized.

Section 5, Act of May 31, 1907, P. L. 349.

Section 7. The commission, under which the provisions of this article shall be carried out, shall have power to employ and pay such superintendents, engineers, foresters, treewardens, or other assistants, as the proper performance of the duties devolving upon it shall require; and to make, publish and enforce regulations for the care of, and to prevent injury to, the trees on the highways of any borough, accepting the provisions of this article, and to assess suitable fines and penalties for violations of this article, provided such regulations shall have been published at least twice in one or more, not exceeding two, newspapers of the borough involved, after having been submitted to and being approved by the councils of the borough affected; and such fines and penalties, so assessed for violations of this article, shall become liens upon the real property of the offender, and be collectible by the constituted authorities as liens for taxes upon real property are now collected.

Section 6, Act of May 31, 1907, P. L. 349.

Section 8. All the moneys due and collected from fines or penalties or assessments, in consequence of the acts of said shade tree commission in enforcing this article shall be paid to the treasurers of the boroughs, accepting its provisions, and shall be placed to the credit of said commission, subject to be drawn upon by the said commission for the purposes of this act.

Section 7, Act of May 31, 1907, P. L. 349.

Section 9. The foregoing provisions of this article shall not be and become binding upon any borough until it has been duly accepted, as provided in section two.

Section 9, Act of May 31, 1907, P. L. 349.

(b) POWER OF BOROUGHS WITH REGARD TO SHADE-TREES.

Section 10. The burgess and council of any borough of this Commonwealth, upon the petition of a majority of the property owners upon any public street thereof, may by ordinance require the planting and replanting of suitable shade-trees along and upon either side of any such street, upon such alignment and at such points as may by such ordinance be designated, by the owner or owners of property abutting the street at the points designated; and on failure of

any such owner or owners after reasonable notice, to comply with the terms of any such ordinances, the said authorities may cause such trees to be planted or replanted at the expense of the borough; and thereupon, in the name of the borough, collect such expense from the owner or owners in default, as debts of like amount are by law collectible: Provided, That the said authorities shall not require the planting or replanting of trees at any point or points which may interfere with the necessary or reasonable use of any street or abutting property, or interfere unreasonably with any business thereon conducted.

Section 1, Act of June 17, 1901, P. L. 569, No. 275.

CHAPTER IX.

PARKS, SHADE-TREES, FORESTS.

ARTICLE III.

FORESTS.

Section 1. The boroughs of this Commonwealth are hereby empowered to acquire, by purchase, gift, or lease, and hold as the property of the borough, tracts of land at present covered with forest or tree growth, or suitable for the growth of trees, and to administer the same. under the direction of the Commissioner of Forestry of the Commonwealth of Pennsylvania in accordance with the practices and prinicples of scientific forestry, for the benefit and advantage of the said borough. Such tracts may be of any size suitable for the purpose, and may be located either within, adjacent to, or at a distance from the corporate limits of the borough, purchasing the same.

Part of Section 1, Act of April 22, 1909, P. L. 124.

Section 2. It shall be requisite for the burgess, of any borough, availing itself of the provisions of this article, to submit to the Commissioner of Forestry, and secure his approval of, the area and location of any lands proposed to be acquired for the purposes of municipal forests, previous to the passage of the ordinance provided for in section three.

Part of Section 1, Act of April 22, 1909, P. L. 124.

Section 3. Whenever the councils of any borough shall deem it expedient for the borough to acquire any such lands for the purposes of a municipal forest, they shall so declare in an ordinance, wherein

shall be set forth all facts and conditions relating to the proposed action; which said proposed ordinance, prior to its passage, shall be duly advertised once a week for three weeks, and, after its passage and approval, in accordance with existing law.

Part of Section 2, Act of April 22, 1909, P. L. 124.

Section 4. All money necessary for the purchase of such tracts shall be appropriated in like manner as is now done, under existing law, for municipal purposes; and such funds may be provided out of current revenue, or by the proceeds of a sale of bonds, in accordance with existing law.

Part of Section 2, Act of April 22, 1909, P. L. 124.

Section 5. Upon the acquisition of any municipal forests or of lands suitable for such, under this article, the proper authorities shall notify the Commissioner of Forestry, who shall make such rules for the government and proper administration of the same as may be necessary. The municipal authorities shall thereupon publish such rules, declare the uses of the forest in accord with the true intent of this article, and make such provision for its administration, maintenance, protection, and development as shall be necessary or expedient.

Section 3, Act of April 22, 1909, P. L. 124.

Section 6. All moneys necessary to be expended, from time to time, for the administration, maintenance, protection, and development of said forest, shall be appropriated and applied as is now done, under existing law, for municipal purposes; and all revenue and emoluments arising from said forest shall be paid into the municipal treasury, to be used for general municipal purposes.

Section 4, Act of April 22, 1909, P. L. 124.

Section 7. The municipal forest may be used by the people for general outing or recreation grounds, subject to the rules governing its administration for the purpose of a municipal forest, in which the major idea shall be the sale of forest products for producing a continuing municipal revenue.

Section 5, Act of April 22, 1909, P. L. 124.

Section 8. The alienation of a municipal forest, or any part thereof, shall be made only in the manner prescribed herein for the purchase of the same; to wit, by ordinance duly advertised before and after passage, but such ordinance shall not be effective in legalizing such alienation until after it shall have been approved by a majority vote of the people at the next ensuing election.

Section 6, Act of April 22, 1909, P. L. 124.

CHAPTER X.

LIBRARIES.

ARTICLE I.

(a) POWER TO ESTABLISH AND MAINTAIN PUBLIC LIBRARIES.

Section 1. The borough council may submit to the qualified voters of the borough, at any regular municipal election, the question of the establishment and maintenance of a public library in the borough, and must submit the question, if petitioned for by at least three per centum of the voters registered at the last annual election. At said first mentioned election the question of establishing said public library and the rate of the annual tax, not exceeding two mills on the dollar on all the taxable property in the borough, shall be submitted and voted upon. A majority of the votes cast on the question shall decide.

Section 1, Act of June 17, 1901, P. L. 569. No. 276.

Section 2. The rate of tax so voted shall be an annual tax rate until another popular vote is taken changing the same. The tax shall be levied and collected in like manner with the other taxes in the borough, and shall be in addition to all other taxes, and shall be used for no other purpose than that of establishing and maintaining a public library. The money so raised shall be under the exclusive control of a board of library directors appointed as hereinafter provided.

Section 2, Act of June 17, 1901, P. L. 569. No. 276.

Section 3. If five per centum of the registered voters of any borough shall petition council to submit the question of creating a bonded indebtedness, for purchasing ground and erecting buildings for public library purposes, council must submit the question to be voted upon at the next annual election in the same manner as hereinbefore provided.

Section 3, Act of June 17, 1901, P. L. 569. No. 276.

Section 4. The affairs of a public library shall be under the direction and control of a board of directors, of not less than five or more than nine, as determined by council. They shall be appointed

from the citizens at large by the burgess and confirmed by council. The first appointees shall be appointed, one-third for one year, one-third for two years, and one-third for three years. The superintendent of schools of the borough shall be ex-officio members of the board. The terms of office of the members of the board appointed by the burgess shall be for three years. The board shall be organized by the election of a president and treasurer from its membership, and such other officers and agents as the board may deem necessary. The treasurer shall be required to give bonds.

Section 4, Act of June 17, 1901, P. L. 569. No. 276.

Section 5. Every library or reading room established under this article shall be forever free to the use of the inhabitants of said borough where located, always subject to such reasonable rules and regulations as the board, having the library in charge, may adopt in order to render the use of said library and reading room of the greatest benefit to the greatest number, and said board may exclude from the use of said library and reading room any and all persons who shall wilfully violate such rules. And said board may extend the privileges and use of such library and reading room to persons residing outside of such borough, upon such terms and conditions as said board may, from time to time, by its regulations prescribe.

Section 5, Act of June 17, 1901, P. L. 569. No. 276.

Section 6. Said board shall make an annual report to the council of such borough, covering the fiscal year of such borough; stating the condition of the library and of the branch or branches, if any; the various sums of money received from the library tax and from other sources; and how such moneys have been expended, and for what purposes; the number of books and periodicals on hand; the number added by purchase, gift or otherwise during the year; the number of registered readers, the number of books loaned out, and the general character and kind of such books; with such other statistics, information and suggestion as they may deem of general interest.

Section 6, Act of June 17, 1901, P. L. 569. No. 276.

Section 7. The councils of said boroughs have power to pass ordinances imposing suitable penalties for the punishment of persons committing injury to such library, or to the grounds or other property thereof, or for injuring or failing to return, at the time and in the manner specified in the rules of said library, any books belonging to the same.

Section 7, Act of June 17, 1901, P. L. 569. No. 276.

Section 8. Any person desiring to make donations of books, money, personal property or real estate for the benefit of such library, shall have the right to vest the title to such books, money or real estate, so donated, in the board duly constituted for the management of such library; to be held and controlled by such board, when accepted, according to the terms of the deed, gift, devise or bequest of such property, and as to such property the board shall be held and considered to be trustees.

Section 8, Act of June 17, 1901, P. L. 569. No. 276.

Section 9. The foregoing provisions of this article shall not apply to any borough wherein a free library has been heretofore established.

Section 9, Act of June 17, 1901, P. L. 569. No. 276.

(b) POWER TO PURCHASE OR CONDEMN REAL ESTATE.

Section 10. It shall be lawful for, and the right is hereby conferred upon borough councils to purchase, acquire, enter upon, take, use and appropriate private property for the purpose of using, enlarging or extending grounds now used or which shall hereafter be used for public library purposes, within the corporate limits thereof, by ordinance or resolution as may be determined thereon.

Section 1, Act of May 11, 1901, P. L. 169. No. 136.

Section 11. Whenever any borough council in the exercise of the right so conferred, has acquired, taken, used or appropriated, or shall hereafter acquire, take, use and appropriate, private property for public library purposes, and said borough council cannot agree with the owner or owners thereof, lessee or lessees of such private property, upon the compensation for the property and damages done, or when by reason of the absence or legal incapacity of any such owner or owners, lessee or lessees, no such compensation can be agreed upon; the court of common pleas of the proper county, or any judge thereof in vacation, on application thereto by petition by said borough council, or such owner, lessee or any person interested, shall appoint three discreet, disinterested citizens of said county as viewers, to view and ascertain the damages done by reason of such taking, use, appropriation, occupancy or injury, and shall appoint a time, not less than twenty nor more than sixty days thereafter, for said viewers to meet at or upon the premises where the damages are alleged to be sustained or the property taken, of which time and place ten days' notice shall be given by the petitioner to said viewers and all parties interested, by personal service, when such service can be

obtained, otherwise by public notice in one or more newspapers, or by handbills posted on the premises, or in such other manner as said court may direct.

Section 2, Act of May 11, 1901, P. L. 169. No. 136.

Section 12. The viewers, or any two of them, having been duly sworn or affirmed faithfully, justly and impartially to decide and a true report make concerning all matters and things to be submitted to them, and in relation to which they are authorized to enquire into in pursuance of the provisions of section ten of this article and having viewed the premises or examined the property, shall estimate and determine the quantity, quality and value of the land or property so entered upon, used, appropriated or injured, as the case may be; and having a due regard to, and making a just allowance for, the advantages which may have resulted or which may seem likely to result to the owner or owners of said land or property, in consequence of the taking, enlarging or extending of such public library grounds, and after having made a fair and just comparison of said disadvantages and advantages to which the owner or owners may receive to any nearby property, they shall estimate and determine whether any, and if any, what amount of damages has been or may be sustained, and to whom payable, and make report thereof to said court.

Part of Section 3, Act of May 11, 1901, P. L. 169. No. 136.

Section 13. If any damages be awarded, and the report of said viewers be confirmed by said court, judgment shall be entered thereon; and if the amount thereof be not paid within sixty days after the entry of such judgment, then judgment shall be collected by due legal process, as other judgments are collected from borough councils.

Part of Section 3, Act of May 11, 1901, P. L. 169. No. 136.

Section 14. Upon the report of said viewers or any two of them, any party interested may, within twenty days thereafter, file an appeal from said report to said court, in writing, and accompanied with an affidavit that the same is not taken for the purpose of delay, but because the affiant firmly believes that injustice has been done; and after such appeal, either party may put the cause at issue, in the form directed by said court, and the same shall be tried by said court and a jury, and after final judgment, either party may appeal to the Superior or Supreme Court, under the provisions and in the manner prescribed in other cases.

Part of Section 4, Act of May 11, 1901, P. L. 169. No. 136.

Section 15. The said court of common pleas shall have power to order what notices shall be given in connection with any of the proceedings, and may make all such orders as it may deem requisite.

Part of Section 4, Act of May 11, 1901, P. L. 169, No. 136.

Section 16. The costs incurred in the proceedings shall be defrayed by said borough council, and each of the viewers shall be entitled to receive a sum not exceeding five dollars per day; or such compensation as the said court shall decided upon, not exceeding five dollars per day, for every day necessarily employed in the performance of their duties.

Part of Section 4, Act of May 11, 1901, P. L. 169. No. 136.

(c) POWER TO CONTRACT FOR THE USE OF PUBLIC LIBRARIES.

Section 17. For the purpose of establishing and maintaining free public libraries in the boroughs of this Commonwealth, authority is hereby given to the town councils of the boroughs of this State to contract with the duly constituted managers, or the owners or owner, of any existing non-sectarian public library, for a certain fixed sum of money, to be paid annually, at such periods as may be agreed upon, for the free use of such public library by the residents within any of the said boroughs, for such period, not exceeding three years from the date of contract, as may be agreed upon by and between such town councils and such managers or owners.

Section 1, Act of April 22, 1905, P. L. 281. No. 191.

Section 18. That such town councils may appropriate annually from the taxes levied and collected for borough purposes, for the hiring and procuring of the free use as aforesaid of such libraries, not to exceed the amount of one mill on a dollar on all taxable property in such boroughs.

Section 2, Act of April 22, 1905, P. L. 281. No. 191.

(d) POWER TO MAKE APPROPRIATIONS.

Section 19. For the purpose of establishing and maintaining free public libraries on a permanent basis throughout the Commonwealth, authority is hereby given to the town councils of the boroughs of this State to make appropriation or appropriations for or in aid of the establishment or maintenance, or either, of a free public library or libraries now incorporated, or that may hereafter be incorporated, for the use of the residents within any of the said boroughs, upon condition that the municipal authorities shall be represented to the satisfaction of said councils in the management of such library or libraries.

Section 1, Act of May 25, 1897, P. L. 84.

Section 20. That said councils may appropriate annually from the taxes levied and collected for borough purposes for the establishment and maintenance of such library or libraries, not to exceed one mill on a dollar on all taxable property in such boroughs.

Section 2, Act of May 25, 1897, P. L. 84.

Section 21. All taxes on dogs, levied and collected under this act for borough purposes within this Commonwealth may be appropriated for the support and maintenance of public libraries now organized, or that may hereafter be organized, in said borough respectively: Provided, That such library companies shall provide and maintain a free reading-room for the use of all the inhabitants of such boroughs: Provided further, That this section shall not apply to any borough until such public library has been established.

Section 1, Act of May 23, 1887, P. L. 164. No. 92.

CHAPTER XI.

BURIAL GROUNDS.

ARTICLE I.

Section 1. Boroughs shall have power to prohibit within the borough the burial or interment of deceased persons, or within such partial limits within the same as they may from time to time prescribe, and to regulate the depth of graves.

Section 2, Clause 16, Act of April 3, 1851, P. L. 320.

Section 2. When the title, control, and management of any burial ground in this Commonwealth is vested, by deed, dedication, or otherwise, in a borough, it shall be lawful for the council of such borough, upon the petition of ten lot owners in said burial ground, to transfer said burial ground, and the control of the management thereof, to an incorporated cemetery company.

Section 1, Act of April 23, 1909, P. L. 155, No. 107.

Section 3. Upon the presentation to said council of the petition of ten lot owners, the council of said borough may pass an ordinance declaring, that upon the acceptance of the provisions of said ordinance by the incorporated cemetery company, to whom the transfer

is requested by said petition, in writing, filed with the borough clerk, the title, management, and control shall thereupon vest in said incorporated cemetery company.

Section 2, Act of April 23, 1909, P. L. 155, No. 107.

Section 4. When such acceptance by said incorporated cemetery company is filed with the borough clerk, as herein provided for, he shall thereupon record the same in the book provided for the recording of the ordinances of said borough, and a copy of the record of said ordinance and the acceptance thereof, certified to by the burgess and clerk of said borough, shall thereupon be recorded in the office of the recorder of deeds of the proper county, in the same manner as is now provided for the recording of deeds.

Section 3, Act of April 23, 1909, P. L. 155, No. 107.

Section 5. The court of quarter sessions may make such orders and decrees for the regulation and care of burial grounds, situated in and adjacent to incorporated boroughs, as the public good shall require; and when any such burial ground shall become so neglected as, in the opinion of said court, to become a public nuisance, the court may direct the removal of the dead therefrom, by the proper borough authorities, to some other properly regulated burial ground, and may enforce, by proper process, orders and decrees made under this section.

Section 2, Act of May 13, 1876, P. L. 159, amending Section 1, Act of May 19, 1874, P. L. 208.

Section 6. Upon petition of the managers and officers of any incorporated cemetery company, and a majority of the taxables of the borough to which it is proposed to transfer such cemetery, the said court may authorize the transfer of any cemetery to the borough authorities of any borough in which such cemetery may be located or adjacent thereto; and such transfer shall be made without cost to such borough; and upon such transfer being made such borough authorities shall hold and exercise the power and privilege of such incorporated company, and may purchase lands within or beyond such borough limits, not to exceed thirty acres, for the extension of such cemetery, if the same be deemed necessary, and may raise the means by sale of lots or otherwise, but in no event by taxation, to pay for the same, and perform such other duties as may be deemed necessary in the premises; they may lay out the grounds so purchased, and change or alter the original plot of such cemetery, and may dispose of such grounds in the same manner and for the same purposes as such incorporated company did or could have done;

and a deed made by the burgess of such borough shall be of the same validity as the deed of such incorporated company; and the said burgess of any such borough is hereby authorized to make deeds to those who heretofore purchased lots for burial, but have not as yet been furnished with deeds by said cemetery corporations; in changing or altering the plot of any such cemetery, the dead bodies may be removed and re-interred in a suitable place without cost to surviving friends.

Section 2, Act of May 13, 1876, P. L. 159, amending Section 2, Act of May 19, 1874, P. L. 208.

Section 7. When by the growth of a borough, and the opening of incorporated or unincorporated cemeteries in a borough, or in the vicinity thereof, or from other causes, any burial ground belonging to or in charge of any religious society or church directly, or through trustees thereof, or in charge of no person, persons, church or society, has ceased to be used for interments, or has become so neglected, as, in the opinion of the court, to become a public nuisance, or that the remains of bodies interred in any such neglected or disused cemetery in any borough interfere with and hinder the improvements, extensions, and general progressive interests of any borough; or when the said land shall be desired by the same borough of any municipal free public library building, or for any other public purposes; the court of quarter sessions of the several counties of this Commonwealth, upon petition of the managers, officers, or on the petition of fifty or more citizens or residents in the vicinity, in case where such cemetery or graveyard is not in charge of any person, persons, church or society, or trustees of such society or church, setting forth that the erection, extension, improvements, and general progressive interests of such borough are hampered and interefered with, and the welfare of such borough is injured to the detriment thereof and of the public good; or upon the petition of said borough, that the said land shall be desired by said borough for the erection thereon of any municipal free public library building, or for any other public purposes; and after three weeks of advertisement or hearing in open court for the purpose, may, after a full hearing of the parties, their proofs and allegations, authorize and direct the removal of the remains of the dead from such burial grounds: Provided, That no such application shall be made by the managers, officers, or trustees of such society or church, except in pursuance of the wishes of a majority of the members of such society or church, expressed at a meeting held for that purpose after two weeks' public notice.

Section 1, Act of April 29, 1909, P. L. 291, amending Section 1, Act of May 12, 1887, P. L. 96.

Section 8. Such removal shall be made by such managers, officers, or by the authorities of such borough, when such burial ground is not in the charge of any person, persons, church or society, trustees of such society or church, or under their direction, in a careful manner, at their own expense, to such other burial ground or grounds they may select for said purpose; or, if desired by the relatives or friends of such dead, to some properly regulated burial ground or cemetery in the immediate vicinity; and said courts may enforce, by proper process, orders and decrees made under this act: Provided, however, That before removing any of the said bodies, said managers, trustees, or borough authorities shall publish, for two successive weeks in two daily or weekly newspapers of such borough, or county wherein such burial ground is located, a notice declaring their intention to remove said remains: And provided further, That relatives and friends of such dead shall have the right to so remove said remains, at any time during said proceedings, at their own expense, before actual removal by such managers, officers or trustees: And it is further provided, That all bodies, when so removed, shall be placed in separate caskets and graves, and the headstones, monuments, or other marks placed by the remains of said bodies, shall be taken, by the persons authorized to make such removal, and placed as near as can be in the same relative position as before removal.

Section 2, Act of April 29, 1909, P. L. 291, amending Section 2, Act of May 12, 1887, P. L. 96.

CHAPTER XII.

ENFORCEMENT OF ORDINANCES — ACTIONS BY AND AGAINST BOROUGHS.

ARTICLE I.

ENFORCEMENT OF ORDINANCES.

Section 1. Fines and penalties under the ordinances of the borough shall be recoverable before any justice of the peace of the borough, and shall be paid over to the treasurer for the use of the borough.

Section 32, Act of April 3, 1851, P. L. 320.

Section 2. The policemen of the several boroughs of this Commonwealth, in addition to the powers already conferred upon them, shall and may, without warrant and upon view, arrest and commit for hearing any and all persons guilty of a breach of the peace, vagrancy, riotous or disorderly conduct or drunkenness, or may be engaged in the commission of any unlawful act tending to imperil the personal security or endanger the property of the citizens, or violating any ordinances of said borough, for the violation of which a fine or penalty is imposed. Any person or persons arrested, with or without warrant, shall be entitled to a trial, and to give bail for his or her or their appearance according to the practice in summary convictions in criminal cases.

Section 1, Act of June 4, 1897, P. L. 121, No. 101.

Section 3. All actions, prosecutions, complaints and proceedings for the violation of borough ordinances and for the collection of fines and penalties imposed thereby, may be commenced by warrant or by summons at the discretion of the chief burgess or justice of the peace before whom the complaint is made or the proceedings begun, but no warrant shall be issued except upon complaint, on oath or affirmation, specifying the ordinance for the violation of which the same is issued, and all proceedings shall be directed to and be served by any policeman of said borough who shall execute the same anywhere within the borough, or in the county of which it is a part, or elsewhere in the State, as may be provided by law. Warrants shall be returnable forthwith, and upon such return the like proceedings shall be had in all cases as are or may be directed by law in relation to summary convictions with the same right of appeal from any final judgment entered therein except where otherwise provided by existing laws. When any person is arrested on view, a complaint, on oath, or affirmation, shall be immediately made, whereupon the like proceedings shall be had as upon a warrant issued. All fines or penalties for the violation of borough ordinances shall be paid over to the borough treasurer.

Section 2, Act of June 4, 1897, P. L. 121, No. 101.

Section 4. Any person arrested for the violation of a borough ordinance may be committed to the borough lock-up pending a hearing or trial, but in case there is no suitable lock-up or place in which to detain prisoners, the person arrested may be committed to the county jail. Upon judgment against any person by summary conviction, or by proceedings by summons on default of payment of fine or penalty imposed by said judgment and the costs, the defendant may be sentenced and committed to the borough lock-up for a period not ex-

ceeding five days, or to the county jail for a period not exceeding thirty days: Provided, however, That no fine or penalty shall exceed one hundred dollars for any single violation of any ordinance, and provided further that in case the defendant has goods or property of any kind whatsoever out of which said judgment and costs can be collected by execution, capias or other process, the plaintiff in the action may elect to proced to collect the said judgment for fine or penalty and costs by said proceedings.

Section 3, Act of June 4, 1897, P. L. 121, No. 101.

Section 5. When any person or persons shall have been arrested by authority of the burgess, or justice of the peace in any borough of this Commonwealth, charged with the violation of any peace ordinances, or with being a vagrant or tramp, and having refused to pay the fine imposed for such offense, the said burgess, or justice of the peace of said borough shall have authority to commit said person or persons to the lock-up or station-house in said borough, for a term not exceeding five days, or compel such person to work upon the public works or streets of said borough, for a period of time not exceeding one day for each one dollar of fine so as aforesaid imposed: Provided, That the defendant may appeal from the decision of such burgess, or justice of the peace to the court of quarter sessions of the peace of the proper county, upon entering into recognizance, with at least one surety, in double the amount of the fine and costs, in the usual manner for his appearance at said court, when the offence shall be prosecuted in the same manner as is now directed by law in case of misdemeanor.

Section 1, Act of May 18, 1887, P. L. 122.

Section 6. When a prisoner shall be committed to any county jail or prison in this Commonwealth, either for the non-payment of a fine or penalty imposed for the violation of any borough ordinance, or while awaiting a hearing upon any charge for the violation of any borough ordinance, the costs of proceedings and the expenses of maintaining such prisoner during his confinement by virtue of any such commitment, shall be borne and paid by the borough, whose ordinances were alleged to have been violated, or to which any such fines or penalties are payable; and the county in which such borough is located shall not be liable to the sheriff for any such maintenance, or to any officer, magistrate, or person for any costs of such proceedings.

Section 1, Act of June 7, 1911, P. L. 677, No. 268.

CHAPTER XII.

ARTICLE II.

ACTIONS BY AND AGAINST BOROUGHS.

(a) RECOVERY OF MUNICIPAL CLAIMS.

Section 1. All boroughs of the Commonwealth of Pennsylvania may proceed for the recovery of any municipal claim or claims, whatsoever, by lien or by action of assumpsit; and authority is hereby conferred upon justices of the peace to entertain such actions of assumpsit, to the limits of their jurisdiction.

Section 1, Act of March 25, 1909, P. L. 78, amending Section 1, Act of April 4, 1907, P. L. 40.

(b) DEFENCES BY TAXPAYERS.

Section 2. In case of any unsatisfied judgment, or any suit or process of law, against any borough in this Commonwealth, any tax-payer of said borough may inquire into the validity of any judgment, or defend said borough in any suit or judgment, upon petition, accompanied by affidavit that said tax-payer believes that injustice will be done to said borough in said suit or judgment, presented to the court of common pleas in which said suit may be pending or judgment may exist, shall have the right to come into the court and defend said district in any suit, and inquire into the validity of any judgment against said borough as fully and completely as the officers of said borough would, by law, have the right to do: Provided, That said tax-payer shall, whenever the court shall deem it necessary, file in said court of common pleas a bond, with one or more sufficient sureties, to be approved of by said court, to indemnify and save harmless said borough from all costs that may accrue in said suit, subsequently to filing said petition.

Section 1, Act of March 23, 1877, P. L. 20, No. 16.

Section 3. In all cases where a judgment shall be rendered by any justice of the peace or alderman against any borough of this Commonwealth, in which by existing laws the right of appeal is given to such borough, any tax-payer of such borough may take an appeal, in behalf of such borough from such judgment to the court of common pleas of the proper county, within the time prescribed by law for taking appeal by the defendant, if for a period of ten days immediately after the rendition of judgment the proper borough of-

ficials neglect or refuse to take and perfect such appeal, and file the same in said court: Provided, That such tax-payer shall in taking the appeal make an affidavit that the same is not taken for delay, but because he, she or it verily believes injustice has been done, and shall pay the costs of the appeal, and enter good and sufficient bail for the payment, on the affirmation of the judgment, of all other costs before the justice of the peace or alderman and all the costs in the court of common pleas.

Section 1, Act of May 11, 1911, P. L. 208, No. 152.

Section 4. Upon filing the said appeal in the court of common pleas of the proper county, the said tax-payer shall be made a party to the suit, and shall have the right to defend such borough therein.

Section 2, Act of May 11, 1911, P. L. 208, No. 152.

(c) LIABILITY IN BOND TRANSFERS.

Section 5. All certificates of stocks and loans which have been or may hereafter be issued by any borough shall be transferrable by the legal owner thereof, without any liability on the part of the transfer agents of the borough permitting such transfers, to recognize, or see to the execution of, any trust, whether expressed, implied or constructive, to which such stocks or loans may be subject; unless when such transfer agents or officers of such borough charged with the duty of permitting such transfer to be made, shall have previously received actual notice in writing, signed by or on behalf of the person or persons for whom such stocks or loans appear by the certificate thereof to be held in trust, that the proposed transfer would be a violation of such trust.

Section 1, Act of May 23, 1874. P. L. 222. No. 144.

CHAPTER XIII.

ARTICLE I.

SECTION ONE.

(a) THE FOLLOWING ACTS AND PARTS OF ACTS OF ASSEMBLY ARE ABSOLUTELY REPEALED, VIZ:—

Sections one, two, three, four, six, seven, ten, eleven, fourteen and sixteen of an act entitled "An act to provide for the incorporation of boroughs," approved the first day of April, one thousand eight hundred thirty-four (P. L. 163).

An act entitled "A supplement to an act for the regulation of boroughs, approved the third day of April, Anno Domini one thousand eight hundred and fifty-one," approved the eleventh day of June, one thousand eight hundred seventy-nine (P. L. 150).

An act entitled "A further supplement to the act approved the fourteenth day of May, Anno Domini one thousand eight hundred and seventy-four, entitled 'An act to prescribe the manner in which the courts may divide boroughs into wards, and to provide for a ward representation upon school boards, in said boroughs,'" approved the sixteenth day of February, one thousand eight hundred eighty-three (P. L. 5).

An act entitled "An act to amend the first section of an act, approved the 11th day of June, one thousand eight hundred and seventy-nine, entitled 'A supplement to an act for the regulation of boroughs, approved the third day of April, Anno Domini one thousand eight hundred and fifty-one,' so as to include all incorporated boroughs," approved the seventeenth day of May, one thousand eight hundred eighty-three (P. L. 36).

An act entitled "A supplement to an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, and empowering the corporate authorities of boroughs to lay foot walks along turnpike roads, and assess the cost of paving, curbing and guttering the same on the owners of the adjoining lands," approved the twenty-second day of May, one thousand eight hundred eighty-three (P. L. 39).

An act entitled "An act to repeal part of section seventeen of an act, entitled 'An act regulating boroughs,' approved April three, Anno Domini one thousand eight hundred and fifty-one, and providing the manner of electing members of town councils in the boroughs of this Commonwealth, and of filling vacancies therein," approved the first day of June, one thousand eight hundred eighty-three (P. L. 54).

An act entitled "An act to provide for changing the dividing lines between adjoining boroughs, where said lines separate the property of the same owner into two or more parts," approved the thirteenth day of June, one thousand eight hundred eighty-three (P. L. 98).

An act entitled "An act fixing the date of the commencement of terms of borough officers and auditors' settlements," approved the thirteenth day of June, one thousand eight hundred eighty-three (P. L. 121).

An act entitled "A further supplement to an act regulating boroughs, approved the third day of April, Anno Domini one thousand eight hundred and fifty-one," approved the third day of June, one thousand eight hundred eighty-five (P. L. 55).

An act entitled "An act authorizing boroughs to supply, and to make contracts for, supplying water outside the limits of said boroughs," approved the tenth day of June, one thousand eight hundred eighty-five (P. L. 81).

An act entitled "An act relating to elections in boroughs to determine the expediency of constructing water works in certain cases," approved the twenty-fourth day of June, one thousand eight hundred eighty-five (P. L. 163).

An act entitled "An act authorizing the councils of the boroughs of this Commonwealth to regulate and fix the amount of license to be paid, by persons or firms engaged in the business of auctioneering, within the limits of the same," approved the seventh day of May, one thousand eight hundred eighty-seven (P. L. 93).

An act entitled "An act authorizing the burgess, alderman or justice of the peace in any borough to commit to the lockup or station house of said borough, in certain cases," approved the eighteenth day of May, one thousand eight hundred eighty-seven (P. L. 122).

An act entitled "An act extending the authority and jurisdiction of justices of the peace to the several burgesses of this Commonwealth," approved the nineteenth day of May, one thousand eight hundred eighty-seven (P. L. 133).

An act entitled "An act appropriating the tax on dogs to the support of public libraries in boroughs," approved the twenty-third day of May, one thousand eight hundred eighty-seven (P. L. 164).

An act entitled "A further supplement to an act regulating boroughs, approved the third day of April, Anno Domini one thousand eight hundred and fifty, authorizing the erection and leasing of wharves, and the collection of wharfage thereon," approved the seventeenth day of April, one thousand eight hundred eighty-nine (P. L. 34).

An act entitled "A further supplement to an act, entitled 'An act regulating boroughs,' approved the third day of April, one thousand eight hundred and fifty-one, authorizing the corporate authorities to levy and collect a license tax on hacks, carriages and other vehicles carrying persons or property for pay," approved the twenty-second day of April, one thousand eight hundred eighty-nine (P. L. 39).

An act entitled "An act authorizing the councils of incorporated boroughs to require the paving, curbing and macadamizing of streets or thoroughfares, or parts thereof, and assess a portion of the cost of the same on the owners of property abutting thereon, and providing for the collection of the same," approved the twenty-third day of April, one thousand eight hundred eighty-nine (P. L. 44).

An act entitled "An act providing for appeals from decrees of courts of quarter sessions incorporating boroughs," approved the ninth day of May, one thousand eight hundred eighty-nine (P. L. 174).

An act entitled "An act to enable boroughs to adopt and construct sewage systems and to assess and collect the cost thereof," approved the fifteenth day of May, one thousand eight hundred eighty-nine (P. L. 220).

An act entitled "An act to provide for the division of boroughs and the erection of new boroughs," approved the twenty-ninth day of May, one thousand eight hundred eighty-nine (P. L. 393).

An act entitled "An act to authorize any borough now incorporated or that may hereafter be incorporated, to manufacture electricity for commercial purposes, for the use of the inhabitants of said boroughs and for this purpose to erect, purchase or condemn electric-light plants and apparatus, and making valid the acts of any borough which has heretofore manufactured the same, or incurred any indebtedness thereby, in accordance with the provisions of this act," approved the twentieth day of May, one thousand eight hundred ninety-one (P. L. 90).

An act entitled "An act to authorize the burgess and council of all incorporated boroughs to widen and deepen streams and water courses running through said boroughs, and to erect dykes and embankments along the same, and to empower the burgess and councils to enter upon private property on and along such streams and water courses for the purpose of procuring material for such work, and to provide for the payment of the expense thereof, and the assessment of damages sustained to private parties thereby," approved the eighth day of June, one thousand eight hundred ninety-one (P. L. 210).

An act entitled "An act to authorize the election of a chief burgess for three years in the several boroughs of this Commonwealth who shall not be eligible to the office for the next succeeding term, and providing that such officer shall not be a member of the town council, giving him the power to veto ordinances, providing for the election of a presiding officer of councils and abolishing the office of assistant burgess," approved the twenty-third day of May, one thousand eight hundred ninety-three (P. L. 113).

An act entitled "An act authorizing the appointment of policemen in the boroughs of this Commonwealth, defining their powers and duties, and providing for their compensation and discharge," approved the sixth day of June, one thousand eight hundred ninety-three (P. L. 327).

Sections one, two, three, four, five, six, seven and ten of an act, entitled "An act to provide for the consolidation of boroughs and the government and regulation thereof," approved the sixth day of June, one thousand eight hundred ninety-three (P. L. 335).

An act entitled "An act to designate the number of councilmen to be elected in the several boroughs of the Commonwealth not divided into wards, to provide for their election and for the filling of vacancies, and to fix the length of term for which they shall serve," approved the twenty-second day of May, one thousand eight hundred ninety-five (P. L. 109).

An act entitled "An act authorizing the councils of incorporated boroughs to change the designations of wards," approved the twenty-fourth day of June, one thousand eight hundred ninety-five (P. L. 241).

An act entitled "A supplement to an act approved May twenty-four, one thousand eight hundred and seventy-eight, entitled 'An act to provide for appointing viewers to assess damages where streets and alleys are changed in grades or location, in the several boroughs of this Commonwealth,' providing that the viewers therein named shall be entitled to mileage in addition to their per diem pay," approved the twenty-fourth day of June, one thousand eight hundred ninety-five (P. L. 248).

An act entitled "An act to amend an act, entitled 'An act empowering the councils in the boroughs of this Commonwealth, to prescribe by ordinance the salary to be paid out of the borough treasury to the burgess, respectively, in lieu of all fees, fines and costs, the manner in which salaries shall be paid, and directing all fees, fines and costs to be paid into the borough treasury,' approved the thirteenth day of April, Anno Domini one thousand eight hundred and seventy-six, extending the provisions of said act to all boroughs in this Commonwealth, whether incorporated under general or special laws," approved the twenty-fourth day of June, one thousand eight hundred ninety-five (P. L. 255).

An act entitled "An act to change the proceedings for the incorporation of boroughs in this Commonwealth, providing for the approval of the application of incorporation by the court, and abolishing that part of the proceeding which requires the laying of the same before the grand jury and its approval thereof," approved the twenty-sixth day of June, one thousand eight hundred ninety-five (P. L. 389).

An act entitled "An act providing for the filling of any vacancy in the office of burgess in the several boroughs of this Commonwealth," approved the second day of July, one thousand eight hundred ninety-five (P. L. 433).

An act entitled "An act to authorize the courts of quarter sessions to declare the seats of councilmen in boroughs vacant when they fail to organize for ten days after the beginning of their term, and to fill the vacancies so made," approved the twenty-seventh day of March, one thousand eight hundred ninety-seven (P. L. 8).

An act entitled "An act supplementary to an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, providing for the grading of streets and highways in boroughs according to the foot-front rule, and for the assessment and collection of the costs and expenses thereof," approved the nineteenth day of May, one thousand eight hundred ninety-seven (P. L. 79).

An act entitled "An act to authorize boroughs of the Commonwealth of Pennsylvania to make appropriations for the establishment and maintenance of free public libraries," approved the twenty-fifth day of May, one thousand eight hundred ninety-seven (P. L. 84).

An act entitled "An act empowering boroughs of this Commonwealth, without petition of property owners, to grade, pave, curb, macadamize and otherwise improve public streets, or parts thereof, when said streets or parts thereof do not exceed five hundred feet in length and connect two streets theretofore paved and improved, and providing for the payment and collection of the costs, damages and expenses thereof," approved the thirty-first day of May, one thousand eight hundred ninety-seven (P. L. 114).

An act entitled "An act amending sub-division eight of section three of an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, and prescribing the notice to be given of any proposition to fix or change the grade, or the laying out, widening, straightening, extending or vacating the streets, roads, lanes, or alleys in any borough in the Commonwealth," approved the twelfth day of July, one thousand eight hundred ninety-seven (P. L. 246).

An act entitled "An act to amend the thirtieth section of an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, empowering the burgess and town council of any borough to annex ad-

jacent lots or out lots, or other tracts of land, on the petition of a majority of the freehold owners thereof," approved the fifteenth day of July, one thousand eight hundred ninety-seven (P. L. 296).

An act entitled "An act to amend section thirty-three of an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, so as to extend the provision which authorizes boroughs incorporated before April third, one thousand eight hundred and fifty-one to become subject to the restrictions and possess the powers and privileges conferred by said act, to boroughs incorporated since April third, one thousand eight hundred and fifty-one," approved the sixteenth day of March, one thousand eight hundred ninety-nine (P. L. 10).

An act entitled "An act to amend the fourth section of an act, entitled 'An act for the further regulation of boroughs,' approved the second day of June, Anno Domini one thousand eight hundred and seventy-one; specifying the mode of procedure in cases where the burgess and town council of any borough pass an ordinance annexing adjacent lands of a township, lots or out lots of the same," approved the sixth day of April, one thousand eight hundred ninety-nine (P. L. 33).

An act entitled "An act to further amend the thirtieth section of an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one, as amended by an act approved the fifteenth day of July, Anno Domini one thousand eight hundred and ninety-seven, empowering the burgess and town council of any borough, on petition of a majority of the freehold owners of lots or outlots, or other tracts of land in any section lying adjacent to said borough, to annex the section which such petitioners or others own," approved the twenty-eighth day of April, one thousand eight hundred ninety-nine (P. L. 115).

An act entitled "An act to amend section one of an act, entitled 'A supplement to the act regulating boroughs, approved April third, one thousand eight hundred and fifty-one,' approved the twenty-second day of April, Anno Domini one thousand eight hundred and fifty-six, and providing for the opening of sidewalks along lands abutting on turnpike roads, and ascertaining the benefits and damages caused thereby," approved the second day of May, one thousand nine hundred one (P. L. 113).

An act entitled "An act authorizing and empowering councils of boroughs within this Commonwealth to contract with any incorporated water company, authorized to do business within such

municipality, for a supply of water for fire protection and for other municipal purposes," approved the second day of May, one thousand nine hundred one (P. L. 137).

An act entitled "An act authorizing boroughs to provide a supply of water for the use of the public, either by the erection and operation of water works or by contracts with persons or corporations authorized to supply water within the limits of said boroughs, or by both methods," approved the third day of May, one thousand nine hundred one (P. L. 140).

An act entitled "An act relating to connection of property with public sewers in boroughs," approved the twenty-first day of May, one thousand nine hundred one (P. L. 265).

An act entitled "An act providing for the service of notice to build or repair sidewalks in the several boroughs of this Commonwealth," approved the twenty-fourth day of May, one thousand nine hundred one (P. L. 297).

An act entitled "An act authorizing the policemen of the several boroughs of this Commonwealth to perform the duties of high constable, and regulating compensation for their services," approved the twenty-fourth day of May, one thousand nine hundred one (P. L. 297).

An act entitled "A further supplement to an act, entitled 'An act regulating boroughs,' approved the third day of April, Anno Domini one thousand eight hundred and fifty-one; amending a supplement to said act, approved the twenty-second day of May, Anno Domini one thousand eight hundred and eighty-three; and empowering the corporate authorities of boroughs to lay out foot-walks, pavements, gutters, culverts and drains, over and upon lands within the boroughs, abutting on and along the side or sides of public roads entirely without the borough limits; and to assess the paving, curbing and guttering of the same on the owners of adjoining lands," approved the twenty-fourth day of May, one thousand nine hundred one (P. L. 299).

An act entitled "An act amending section thirty-three of an act, entitled 'An act to regulate boroughs,' approved third April, one thousand eight hundred and fifty-one; designating who shall make application for a borough, previously incorporated, to become subject to the restrictions and possess the powers and privileges conferred by said act of one thousand eight hundred and fifty-one" approved the fourth day of June, one thousand nine hundred one (P. L. 362).

An act entitled "An act providing that the president of council in all boroughs shall exercise the duties of burgess in the absence or disqualification of that official," approved the tenth day of June, one thousand nine hundred one (P. L. 551).

An act entitled "An act authorizing boroughs of this Commonwealth to require the planting of shade- trees along the public streets thereof, by the owners of abutting property, in certain cases," approved the seventeenth day of June, one thousand nine hundred one (P. L. 569).

An act entitled "An act authorizing the town councils of the several boroughs of this State to pay a portion of the cost and expense of grading and curbing sidewalks," approved the nineteenth day of June, one thousand nine hundred one (P. L. 573).

An act entitled "An act authorizing any borough within this Commonwealth, on the written request of the Board of Health, to confine and pave, or completely enclose, any creek, run or natural water way, other than navigable streams, and for this purpose to enter upon, condemn and take property and material necessary to such confining and paving or complete enclosure; and providing for the ascertainment and assessment of costs, damages and expenses, as well as the levy and collection of benefits, arising therefrom, and constituting such benefits a lien upon the properties upon which they are respectively assessed," approved the tenth day of July, one thousand nine hundred one (P. L. 634).

An act entitled "An act to amend the first clause of the second section, and the third section, of an act, entitled 'An act to provide for the consolidation of boroughs and the government and regulation thereof,' approved the sixth day of June, Anno Domini one thousand eight hundred and ninety-three, removing any limit upon the number of wards into which a consolidated borough may be divided, and defining the laws and ordinances by which a consolidated borough shall be governed," approved the twenty-sixth day of February, one thousand nine hundred three (P. L. 6).

An act entitled "An act supplementary to an act, entitled 'An act to amend an act, entitled "An act to authorize the election of constables for three years," approved the fourteenth day of February, Anno Domini one thousand eight hundred and eighty-nine, by providing for the election of a high constable of each of the boroughs of this Commonwealth, for three years, and by correcting the ambiguity as to the beginning of the terms of office under said act,' approved the twenty-sixth day of June, Anno Domini one thousand eight hundred and ninety-five; making provisions for the filling of vacancies in the office of high constable in any borough, or in the

office of constable in any borough, ward of any borough, or township of this Commonwealth," approved the eleventh day of March, one thousand nine hundred three (P. L. 22).

An act entitled "An act to provide for the election of councilmen, in the several boroughs of this Commonwealth, by wards,' approved the thirteenth day of April, one thousand nine hundred three (P. L. 171).

An act entitled "An act authorizing the chief burgesses of the several boroughs of this Commonwealth to administer all oaths and affirmations in matters pertaining to borough affairs," approved the twenty-third day of April, one thousand nine hundred three (P. L. 291).

An act entitled "An act authorizing any of the boroughs of this Commonwealth to pay a salary to the chief burgess thereof," approved the seventh day of April, one thousand nine hundred five (P. L. 116).

An act entitled "An act to further amend the first clause of the section of an act, entitled 'An act to provide for the consolidation of boroughs, and the government and regulation thereof,' approved the sixth day of June, Anno Domini one thousand eight hundred and ninety-three; authorizing provisions, in the joint agreement for such consolidation, for the use and disposition of the separate assets and the liquidation of the separate debts of such boroughs, and for separate rates of taxation therein for that purpose," approved the tenth day of April, one thousand nine hundred five (P. L. 136).

An act entitled "A supplement to an act, entitled 'An act to provide for the consolidation of boroughs, and the government and regulation thereof,' approved the sixth day of June, Anno Domini one thousand eight hundred and ninety-three, as amended by an act approved the twenty-sixth day of February, Anno Domini one thousand nine hundred and three, entitled "An act to amend the first clause of the second section, and the third section, of an act, entitled 'An act to provide for the consolidation of boroughs, and the government and regulation thereof,' approved the sixth day of June, Anno Domini one thousand eight hundred and ninety-three, removing any limit upon the number of wards into which a consolidated borough may be divided, and defining the laws and ordinances by which a consolidated borough shall be governed," defining the meaning of said act as amended, and confirming the consolidation of boroughs partly lying or situate in different counties, and providing for their government and regulation," approved the fourteenth day of April, one thousand nine hundred five (P. L. 155).

An act entitled "A supplement to an act, entitled 'An act authorizing the councils of incorporated boroughs to require the paving, curbing and macadamizing of streets or thoroughfares, or parts thereof, and assess a portion of the cost of the same on the owners of property abutting thereon, and providing for the collection of the same,' approved the twenty-third day of April, Anno Domini one thousand eight hundred and eighty-nine, pamphlet laws, forty-four; providing that if the petition for said improvement has been verified by the affidavit of one or more of the petitioners, notice may be given of the passage of the ordinance requiring said improvement, and allowing an appeal therefrom, by any person interested, to any court of common pleas of the county; and, if such appeal is dismissed, or no such appeal is taken, then all parties interested shall be estopped from denying that said petition was signed by the requisite number of owners, representing the requisite number of feet fronting on the street to be improved," approved the fourteenth day of April, one thousand nine hundred five (P. L. 168).

An act entitled "An act to amend the second section of an act, entitled 'An act to authorize the election of a chief burgess for three years in the several boroughs in this Commonwealth, who shall not be eligible to the office for the next succeeding term, and providing that such officer shall not be a member of the town council, giving him the power to veto ordinances, providing for the election of a presiding officer of councils, and abolishing the office of assistant burgess,' approved the twenty-third day of May, Anno Domini one thousand eight hundred and ninety-three; so as to authorize and empower the chief burgess to attend meetings of town councils at their annual organization for the election of such officers as are, by law and borough ordinances, at that time required to be elected, and who shall have no vote unless the councils be equally divided, when he shall cast the deciding vote," approved the eighteenth day of April, one thousand nine hundred five (P. L. 215).

An act entitled "An act authorizing the councils of incorporated boroughs to require the subgrading, paving, curbing and macadamizing of streets or thoroughfares or parts thereof, and assess the cost of the same on the owners of property abutting thereon, providing four-fifths of said owners petition councils for same, and providing for the collection of the cost of same," approved the twentieth day of April, one thousand nine hundred five (P. L. 232).

An act entitled "An act authorizing boroughs to require the grading, paving, repaving and repairing of sidewalks, and the constructing and repairing of curbs and gutters at the edge of sidewalks, by

the owner or owners of lots fronting thereon; and providing that, in case of failure to comply with such requirements, the borough may cause the work to be done, and collect the cost and charges thereof," approved the twentieth day of April, one thousand nine hundred five (P. L. 235).

An act entitled "An act to authorize boroughs of the Commonwealth of Pennsylvania to contract with the duly constituted managers or owners of existing non-sectarian public libraries, for the free use of such libraries by the residents of such boroughs, and to make appropriations for the hiring and procuring of such free use," approved the twenty-second day of April, one thousand nine hundred five (P. L. 281).

An act entitled "An act amending an act, entitled 'An act authorizing any of the boroughs of this Commonwealth to pay a salary to the chief burgess thereof, (Pamphlet Laws, one thousand nine hundred and five, page one hundred and sixteen), by providing that in boroughs of over five thousand population, where such salary would fall below the sum of fifty dollars per month, the borough council, in its wisdom, may increase said salary to an amount not exceeding fifty dollars per month," approved the fifteenth day of April, one thousand nine hundred seven (P. L. 61).

An act entitled "An act to amend the first section of an act, entitled 'To enable boroughs to adopt and construct sewerage systems, and to assess and collect the cost thereof,' approved the fifteenth day of May, Anno Domini one thousand eight hundred and eighty-nine (Pamphlet Laws, page two hundred and twenty), by providing for the construction of sewers without a petition of a majority of property owners, and requiring a permit from the Commissioner of Health," approved the twenty-third day of April, one thousand nine hundred seven (P. L. 97).

An act entitled "A supplement to the act of April third, eighteen hundred and fifty-one, entitled 'An act regulating boroughs,' providing for the election of a borough solicitor, fixing the term of office and prescribing his duties, and authorizing the town council to fix his compensation," approved the twenty-sixth day of April, one thousand nine hundred seven (P. L. 103).

An act entitled "An act to amend section one of an act, entitled 'An act empowering boroughs of this Commonwealth, without petition of property owners, to grade, pave, curb, macadamize ,and otherwise improve public streets, or parts thereof, when said streets, or parts thereof, do not exceed five hundred feet in length and connect

two streets theretofore paved and improved, and providing for the payment and collection of the costs, damages, and expenses thereof,' approved May thirty-first, Anno Domini one thousand eight hundred and ninety-seven, by increasing the length of street so to be improved to one thousand feet," approved the seventh day of May, one thousand nine hundred seven (P. L. 168).

An act entitled "An act authorizing the corporate authorities of boroughs to expend not exceeding one-half of the annual appropriation for roads and streets, in curbing and paving or macadamizing any street, lane, or alley therein," approved the eighth day of May, one thousand nine hundred seven (P. L. 183).

Section one of an act entitled "An act concerning building regulation and inspection in boroughs," approved the eighth day of May, one thousand nine hundred seven (P. L. 184).

An act entitled "An act empowering incorporated boroughs to pass such ordinance as may be necessary to regulate or prevent the erection of wooden dwelling-houses, shops, warehouses, stores, carriage-houses, stables, or other frame buildings within the limits of the borough," approved the twenty-third day of May, one thousand nine hundred seven (P. L. 203).

An act entitled "An act authorizing boroughs to erect and maintain garbage-furnaces, and pass rules and regulations for the collection, care, and removal of garbage, and provide penalties for the violation of the same," approved the twenty-fifth day of May, one thousand nine hundred seven (P. L. 230).

An act entitled "An act authorizing and empowering the several boroughs of this Commonwealth to purchase or acquire by condemnation proceedings such real estate, within or without the borough limits, as may be necessary for present and future use, upon which to erect, construct, and maintain garbage or incinerating furnaces, sewage-disposal, works or plants, with the necessary filter-beds, appliances' drains and sewers, and for the extensions thereof," approved the first day of April, one thousand nine hundred nine (P. L. 79).

An act entitled "An act empowering the councils of boroughs in the Commonwealth to fix by ordinance the salary of the burgess of said boroughs," approved the twenty-third day of April, one thousand nine hundred nine (P. L. 154).

An act entitled "An act authorizing the burgess and council in any incorporated borough in this Commonwealth, in which is vested the title, control, and management of any cemetery or burial ground, to transfer said title, control, and management to an incorporated cemetery company, and providing how such transfer shall be effected," approved the twenty-third day of April, one thousand nine hundred nine (P. L. 155).

An act entitled "An act fixing the length of the term of borough treasurers and street commissioners, in boroughs of this Commonwealth that are elected by the electors at large," approved the sixth day of May, one thousand nine hundred nine (P. L. 440).

An act entitled "An act amending the first section of an act, approved the twenty-fourth day of May, Anno Domini one thousand eight hundred and seventy-eight, entitled 'An act to provide for appointing viewers to assess damages, where streets and alleys are changed in grades or location in the several boroughs of this Commonwealth,' by fixing the number of the viewers at three," approved the twenty-seventh day of April, one thousand nine hundred eleven (P. L. 89).

An act entitled "A supplement to an act entitled 'An act authorizing the councils of incorporated boroughs to require the subgrading, paving, curbing, and macadamizing of streets or thoroughfares, or parts thereof, and assess the cost of the same on the owners of property abutting thereon, provided four-fifths of said owners petition councils for same, and providing for the collection of the cost of same,' approved twentieth day of April, Anno Domini one thousand nine hundred and five (Pamphlet Laws, two hundred and thirty-two); providing that if the petition for said improvement has been verified by the affidavit of one or more of the petitioners, notice may be given of the passage of the ordinance requiring said improvement, and allowing an appeal therefrom by any person interested to any court of common pleas of the county; and if such appeal is dismissed, or no such appeal is taken, then all parties interested shall be estopped from denying that said petition was signed by the requisite number of owners, representing the requisite number of feet fronting on the street to be improved," approved the fifth day of May, one thousand nine hundred eleven (P. L. 166).

An act entitled "An act authorizing the proper authorities of adjoining boroughs to fix and determine the dividing line between said boroughs, where the location of the same is uncertain, and to change the dividing line between adjoining boroughs, and providing the manner of procedure in such cases," approved the fifth day of May, one thousand nine hundred eleven (P. L. 176).

An act entitled "An act empowering boroughs of this Commonwealth, without petition of the property owners, to grade, pave, curb, macadamize, and otherwise improve public streets, or parts thereof; and assess a portion of the cost of the same on the owners of property abutting thereon; and providing for the collection of the same," approved the twelfth day of May, one thousand nine hundred eleven (P. L. 288).

An act entitled "An act making void the surveying or laying out of certain highways and sewers over private property, in boroughs, where the work has not been commenced within two years from the passage of the ordinance," approved the first day of June, one thousand nine hundred eleven (P. L. 541).

An act entitled "An act authorizing boroughs to lay out, and maintain as public parks, land heretofore acquired outside of the borough limits," approved the first day of June, one thousand nine hundred eleven (P. L. 544).

An act entitled "An act to amend section one of an act, entitled 'An act authorizing the councils of incorporated boroughs to require the paving, curbing, and macadamizing of streets or thoroughfares, or parts thereof, and assess a portion of the cost of the same on the owners of property abutting thereon, and providing for the collection of the same,' approved April twenty-third, one thousand eight hundred and eighty-nine, by fixing a different portion of the cost and expense which may be assessed against abutting property, where the property on one side of the street or thoroughfare desired to be improved is exempt from assessment," approved the eighth day of June, one thousand nine hundred eleven (P. L. 714).

An act entitled "An act to amend section three of an act, entitled 'An act authorizing the appointment of policemen in the boroughs of this Commonwealth, defining their powers and duties, and providing for their compensation and discharge,' approved June sixth, Anno Domini one thousand eight hundred and ninety-three, by regulating the control of policemen when on duty," approved the eighth day of June one thousand nine hundred eleven (P. L. 720).

An act entitled "An act to amend section one of an act, entitled 'An act authorizing the councils of incorporated boroughs to require the paving, curbing, and macadamizing of streets or thoroughfares, or parts thereof, and assess a portion of the costs of the same on the owners of property abutting thereon, and providing for the collection of the same,' approved the twenty-third day of April, Anno Domini one thousand eight hundred and eighty-nine, so as to change the requirements of the petition for paving from two-thirds of the owners of property representing not less than two-thirds in number

of feet of the properties fronting or abutting on the street or thoroughfare, or the part thereof proposed to be paved, to the owners of property representing not less than two-thirds in number of feet of the properties fronting or abutting on the street or thoroughfare, or the part thereof proposed to be paved; and repealing all acts or parts of acts inconsistent herewith," approved the thirteenth day of June, one thousand nine hundred eleven (P. L. 887).

An act entitled "An act providing for the election of councilmen in the several boroughs of this Commonwealth, and fixing the time and manner of the organization of the town councils therein," approved the nineteenth day of June, one thousand nine hundred eleven (P. L. 1047).

An act entitled "An act amending the first section of an act, approved the twenty-second day of April, Anno Domini one thousand eight hundred and fifty-six, entitled 'A supplement to the act regulating boroughs, approved April third, one thousand eight hundred and fifty-one,' by fixing the number of the viewers at three," approved the twentieth day of June, one thousand nine hundred eleven (P. L. 1085).

An act entitled "An act providing for and regulating the purchase or condemnation of real estate by boroughs, for the purpose of constructing wharves, landing-places, and docks," approved the twenty-first day of June, one thousand nine hundred eleven (P. L. 1099).

An act entitled "An act to provide for the making of a new ordinance book and record of the ordinances of any borough, in which the ordinance book thereof has become lost, destroyed, or so much worn or mutilated as to be unserviceable," approved the twenty-first day of June, one thousand nine hundred eleven (P. L. 1113).

An act entitled "An act to amend section four of an act, approved the nineteenth day of June, one thousand nine hundred eleven, entitled 'An act providing for the election of councilmen in the several boroughs of this Commonwealth, and fixing the time and manner of the organization of the town councils therein,'" approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 268).

An act entitled "An act to amend the first section of an act approved the twenty-fifth day of April, one thousand nine hundred and seven (Pamphlet Laws, one hundred three), entitled 'A supplement to the act of April third, eighteen hundred and fifty-one, entitled "An act regulating boroughs," providing for the election of a bor-

ough solicitor, fixing the term of office and prescribing his duties, and authorizing the town council to fix his compensation,' so as to include all boroughs, and by changing the length of the term and the time of the election of borough solicitors, and extending the terms of the borough solicitors, holding office under the act of April twenty-fifth, nineteen hundred and seven, and providing for the furnishing of a bond by a trust or bonding company," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 409).

An act entitled "An act to amend an act, approved the third day of April, one thousand eight hundred and fifty-one, 'An act regulating boroughs,' as amended," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 411).

An act entitled "An act empowering the several boroughs of the Commonwealth to enact and enforce ordinances prohibiting accumulations of garbage or rubbish upon private properties within their respective limits," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 434).

An act entitled "A further supplement to an act, entitled 'An act to regulate boroughs,' approved the third day of April, one thousand eight hundred and fifty-one, authorizing the corporate authorities of any borough to levy and collect a license-tax on hacks, carriages, omnibusses, and motor-vehicles carrying persons or property for pay; to regulate the operation and compensation of such vehicles within the limits of any such borough, or between any such borough and other points or places," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 434).

An act entitled "An act providing for the election of a borough controller in all boroughs of this Commonwealth; prescribing the qualifications, powers and duties thereof; and abolishing the office of borough auditors in said boroughs," approved the twelfth day of June, one thousand nine hundred thirteen (P. L. 499).

An act entitled "An act to amend section one of an act entitled 'An act to amend section three of an act, entitled "An act authorizing the appointment of policemen in the boroughs of this Commonwealth, defining their powers and duties, and providing for their compensation and discharge," approved June sixth Anno Domini one thousand eight hundred and ninety-three, by regulating the control of policemen when on duty,' approved June eighth, one thousand nine hundred and eleven," approved the nineteenth day of June, one thousand nine hundred thirteen (P. L. 538).

An act entitled "An act to amend an act, approved the sixth day of June, one thousand eight hundred ninety-three, entitled 'An act to

provide for the consolidation of boroughs and the government and regulation thereof,' as amended," approved the nineteenth day of June, one thousand nine hundred thirteen (P. L. 540).

(b) THE FOLLOWING ACTS AND PARTS OF ACTS OF ASSEMBLY ARE ABSOLUTELY REPEALED EXCEPT IN SO FAR AS THEY RELATE TO ASSESSORS, CONSTABLES, ELECTIONS, JUSTICES OF THE PEACE, OVERSEERS OF THE POOR, SCHOOL DIRECTORS, OR TAXATION, VIZ:—

Sections five, eight, nine, twelve, thirteen and fifteen of an act, entitled "An act to provide for the incorporation of boroughs," approved the first day of April, one thousand eight hundred thirty-four (P. L. 163).

Sections two, three, six, twelve, fourteen, fifteen, sixteen, seventeen and twenty-six of an act entitled "An act regulating boroughs," approved the third day of April, one thousand eight hundred fifty-one (P. L. 320).

An act entitled "An act supplementary to an act entitled, 'An act to prescribe the manner by which the courts may divide boroughs into wards,' approved the fourteenth day of May, Anno Domini one thousand eight hundred seventy-four," approved the seventeenth day of February, one thousand eight hundred seventy-six (P. L. 6).

Section one of an act entitled "A supplement to an act, entitled 'An act to prescribe the manner in which the courts may divide boroughs into wards,' approved the fourteenth day of May, Anno Domini one thousand eight hundred seventy-four," approved the tenth day of May, one thousand eight hundred seventy-eight (P. L. 51).

An act entitled "A further supplement to the act approved the fourteenth day of May, Anno Domini one thousand eight hundred seventy-four, entitled 'An act to prescribe the manner in which the courts may divide boroughs into wards,' and to extend the powers of the courts so that they may, on petition, increase the number of councilmen and school directors after decree has been made," approved the thirteenth day of May, one thousand eight hundred eighty-nine (P. L. 193).

Section eight of an act, entitled "An act to provide for the consolidation of boroughs and the government and regulation thereof," approved the sixth day of June, one thousand eight hundred ninety-three (P. L. 335).

An act entitled "An act to amend the ninth section of an act, entitled 'An act to provide for the consolidation of boroughs and the government and regulation thereof,' approved June sixth, Anno Domini one thousand eight hundred ninety-three, so as to allow the town council of a consolidated borough to select, annually, one street commissioner," approved the twenty-fifth day of May, one thousand eight hundred ninety-seven (P. L. 88).

An act entitled "An act relating to boroughs, providing a method of procedure for violations of law and borough ordinances, and for collection of the fines and penalties imposed for said violations," approved the fourth day of June, one thousand eight hundred ninety-seven (P. L. 121).

An act entitled "An act authorizing the courts of quarter sessions of the peace to decrease the number of members of town council, and the number of school directors in wards or boroughs," approved the ninth day of July, one thousand eight hundred ninety-seven (P. L. 216).

An act entitled "An act authorizing policemen to hold and exercise the office of constable," approved the twenty-fifth day of April, one thousand nine hundred five (P. L. 309).

(c) THE FOLLOWING ACTS AND PARTS OF ACTS OF ASSEMBLY ARE REPEALED IN SO FAR AS THEY RELATE TO BOROUGHS, VIZ:—

Section thirty-four of an act entitled "An act relating to roads, highways and bridges," approved the thirteenth day of June, one thousand eight hundred thirty-six (P. L. 551).

Section one of an act entitled "An act providing for the adjustment of all indebtedness between an old township, or townships, and a new township, or borough, erected therefrom," approved the twelfth day of April, one thousand eight hundred sixty-six (P. L. 109).

An act entitled "An act relating to the assessment of damage for the appropriation of land for public use," approved the fifteenth day of June, one thousand eight hundred seventy-one (P. L. 391).

An act entitled "An act to authorize and require the auditors to publish an annual statement of the receipts and expenditures of road commissioners, supervisors, overseers of the poor, and school directors of the several townships and boroughs within this Commonwealth, and to designate a day to audit, settle and adjust township and borough accounts," approved the twenty-fourth day of April, one thousand eight hundred seventy-four (P. L. 112).

Sections one, two and three of an act entitled "An act declaring what offices are incompatible," approved the fifteenth day of May, one thousand eight hundred seventy-four (P. L. 186).

An act entitled "An act to facilitate the transfer of stocks and loans," approved the twenty-third day of May, one thousand eight hundred seventy-four (P. L. 222).

An act entitled "An act for further regulation of appeals from assessments of damages to owners of property taken for public use," approved the thirteenth day of June, one thousand eight hundred seventy-four (P. L. 283).

An act entitled "An act fixing and regulating the terms of all members of councils and all other city, ward, borough and township officers, excepting school directors, elected by the people, and fixing the time for organization of the legislative departments, of the municipal governments of the Commonwealth and the inauguration of the mayors of all the cities of the same," approved the tenth day of March, one thousand eight hundred seventy-five (P. L. 6).

An act entitled "A supplement to an act, entitled 'An act to authorize and require the auditors to publish an annual statement of the receipts and expenditures of road commissioners, supervisors, overseers of the poor and school directors of the several townships and boroughs within this Commonwealth, and to designate a day to audit, settle and adjust townships and borough accounts,' approved the twenty-fourth day of April, Anno Domini one thousand eight hundred and seventy-four," approved the thirty-first day of March, one thousand eight hundred seventy-six (P. L. 12).

An act entitled "A supplement to an act, approved April fourteen, Anno Domini eighteen hundred and fifty-one, relating to an appeal from the decision of township auditors," approved the first day of May, one thousand eight hundred seventy-six (P. L. 88).

An act entitled "An act conferring additional powers upon the several boroughs and incorporated towns of this Commonwealth," approved the fifth day of May, one thousand eight hundred seventy-six (P. L. 112).

An act entitled "An act to empower any tax payer of any township, borough, school poor or other municipal district, upon petition and affidavit, to become a party to any suit or process pending against said district," approved the twenty-third day of March, one thousand eight hundred seventy-seven (P. L. 20).

An act entitled "An act to prohibit cities, boroughs and municipalities from levying any license or mercantile tax, upon persons taking orders for goods or merchandise by sample, for individuals or

companies who pay a license or mercantile tax at their chief place of business, and also to prohibit the collection of such licenses, or mercantile taxes," approved the seventeenth day of May, one thousand eight hundred eighty-three (P. L. 31).

An act entitled "A supplement to an act, entitled 'An act supplementary to an act relative to burial grounds and cemeteries situated in incorporated boroughs,' approved the nineteenth day of May, one thousand eight hundred and seventy-four, changing the title of said act, and authorizing the court to make orders and decrees required by the act, and to enforce the same by process, approved the thirteenth day of May, eighteen hundred and seventy-six, further empowering courts to direct removal of remains in boroughs, cities, and towns from burial grounds where interments have ceased or have become so neglected as to become a public nuisance, or such remains interfere with the improvements, extensions, and interests of such cities, boroughs, or towns," approved the twelfth day of May, one thousand eight hundred eighty-seven (P. L. 96).

An act entitled "An act to provide for licensing and taxing foreign dealers in merchandise and their agents in the several cities and boroughs in the Commonwealth," approved the twenty-fourth day of May, one thousand eight hundred eighty-seven (P. L. 185).

An act entitled "An act declaring and defining the limits of townships, boroughs and cities bounded by any of the navigable streams of the Commonwealth," approved the twenty-fourth day of May, one thousand eight hundred eighty-seven (P. L. 203).

An act entitled "An act to authorize cities and boroughs to condemn property and rights inside and outside of their limits, for the purpose of obtaining and supplying water," approved the twenty-fifth day of May, one thousand eight hundred eighty-seven (P. L. 267).

An act entitled "A further supplement to an act, approved the eleventh day of June, Anno Domini one thousand eight hundred and seventy-nine, entitled 'A supplement to an act for the regulation of boroughs,' approved the third day of April, one thousand eight hundred and seventy-one, providing for the adjustment of indebtedness and government of the boroughs, townships and school districts affected by changes of limits of any borough in the Commonwealth," approved the first day of June, one thousand eight hundred eighty-seven (P. L. 285).

Section eleven of an act entitled "An act authorizing the condemnation of turnpikes, roads or highways, heretofore or hereafter constructed, wholly, or in part, in any county of this Commonwealth,

for public use, free from tolls and toll-gates, and the assessment, upon the proper county, of the damages to which the owner or owners thereof may be entitled, by a jury of viewers, duly appointed by the court of quarter sessions of the proper county, and providing for the maintenance of any such condemned turnpike, road or highway by the proper city, township or district," approved the second day of June, one thousand eight hundred eighty-seven (P. L. 306).

An act entitled "An act to provide for the licensing of transient retail merchants in cities, boroughs and townships," approved the fourth day of May, one thousand eight hundred eighty-nine (P. L. 86).

An act entitled "An act fixing the compensation of borough and township auditors in this Commonwealth," approved the fourth day of May, one thousand eight hundred eighty-nine (P. L. 86).

An act entitled "An act relating to unused streets, lanes and alleys," approved the ninth day of May, one thousand eight hundred eighty-nine (P. L. 173).

An act entitled "An act to provide for an appeal by county commissioners, cities or other municipalities, and all persons interested in the damages awarded for laying out, widening, grading, opening or changing the lines or grades of any public street, road or alley in this Commonwealth, from the decree of the court of quarter sessions confirming the report of the viewers assessing such damages," approved the fifteenth day of April, one thousand eight hundred ninety-one (P. L. 17).

An act entitled "An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom," approved the sixteenth day of May, one thousand eight hundred ninety-one (P. L. 75).

An act entitled "An act to limit the period within which petitions for the assessment of damages for the opening or widening of any street, road or highway, may be filed in the court of quarter sessions," approved the twenty-third day of May, one thousand eight hundred ninety-one (P. L. 109).

An act entitled "An act to provide for the security to be entered by municipal corporations for the taking of land for the opening or widening of roads, streets and highways," approved the twenty-third day of May, one thousand eight hundred ninety-one (P. L. 109).

An act entitled "An act to provide for an appeal to the court of common pleas, from the decree of the court of quarter sessions confirming any award of viewers in proceedings to assess damages for the opening, widening or changing of grade of any street, road or highway," approved the twenty-sixth day of May, one thousand eight hundred ninety-one (P. L. 116).

Section one of an act entitled "A supplement to an act, entitled 'An act for future regulations of appeals from assessment of damages to owners of property taken for public use,' approved the thirteenth day of June, one thousand eight hundred and seventy-four," approved the second day of June, one thousand eight hundred ninety-one (P. L. 172).

An act entitled "An act to amend an act, entitled 'An act to provide for the licensing of transient retail merchants in cities, boroughs and townships,' empowering councils to increase the maximum license," approved the tenth day of May, one thousand eight hundred ninety-three (P. L. 35).

An act entitled "An act to empower boroughs and cities to establish a police pension fund, to take property in trust therefor and regulating and providing for the regulation of the same," approved the twenty-fourth day of May, one thousand eight hundred ninety-three (P. L. 129).

An act entitled "An act to provide for the establishing and ascertaining the lines and boundaries between two or more cities, boroughs or townships, cities and boroughs, townships and boroughs, or cities and townships, within this Commonwealth, and regulating the proceedings thereof," approved the third day of June, one thousand eight hundred ninety-three (P. L. 284).

An act entitled "An act to amend the first section of an act, entitled 'An act in relations to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses there-

of, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one providing for assessment of damages where streets and alleys are changed in grade or location," approved the twelfth day of June, one thousand eight hundred ninety-three (P. L. 459).

An act entitled "An act relating to actions brought to ascertain or recover damages for appropriation of rights of way or easements in lands by corporations invested with the right of eminent domain, and empowering and authorizing owners of lands and corporations, municipal or otherwise, desiring to exercise the right of eminent domain in such lands, to waive the assessment of damages by viewers, and granting the right to either party to demand and have the jury engaged in trying such action visit and view said land and premises," approved the twenty-first day of May, one thousand eight hundred ninety-five (P. L. 89).

An act entitled "An act amending section nine of an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof, upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom,' approved May sixteenth, Anno Domini one thousand eight hundred and ninety-one, enabling municipal corporations to lay out, open, widen, extend and vacate streets or alleys, upon petition or without petition of property owners," approved the twenty-second day of May, one thousand eight hundred ninety-five (P. L. 106).

An act entitled "An act providing for the manner of ascertaining determining, awarding and paying compensation and damages in all cases where municipalities of this Commonwealth may hereafter be authorized by law to take, use and appropriate private property for the purpose of making, enlarging and maintaining public parks within the corporate limits of such municipality," approved the eighth day of June, one thousand eight hundred ninety-five (P. L. 188).

An act entitled "An act to authorize cities, boroughs and townships of this Commonwealth to appropriate moneys for Memorial Day services," approved the twenty-fifth day of June, one thousand eight hundred ninety-five (P. L. 298).

An act entitled "An act conferring upon municipalities the right of eminent domain for the purpose of appropriating public property for the use of the National Guard of Pennsylvania," approved the twenty-sixth day of June, one thousand eight hundred ninety-five (P. L. 332).

An act entitled "An act regulating the letting of contracts for the erection and construction of public buildings," approved the second day of July, one thousand eight hundred ninety-five (P. L. 426).

An act entitled "An act to regulate the remuneration of policemen and constables employed as policemen throughout the Commonwealth of Pennsylvania, and prohibiting them from charging or accepting any fee or other compensation, in addition to their salary, except as public rewards and mileage for traveling expenses," approved the fourteenth day of July one thousand eight hundred ninety-seven (P. L. 266).

An act entitled "An act authorizing any borough or city within this Commonwealth to vacate, change, alter or relocate the course or channel of any creek, run or natural waterway, other than navigable streams, and for this purpose to enter upon, condemn and take property and materials necessary to such vacation, change, alteration or relocation, and providing for the ascertainment and assessment of costs, damages and expenses, as well as the levy and collection of benefits arising therefrom, and constituting such benefits a lien upon the properties upon which they are respectively assessed," approved the twenty-eighth day of April, one thousand eight hundred ninety-nine (P. L. 74).

Section eleven of an act entitled "An act supplementary to an act approved the second day of June, Anno Domini one thousand eight hundred and eighty-seven, entitled 'An act authorizing the condemnation of turnpikes, roads or highways heretofore or hereafter constructed, wholly, or in part, in any county of this Commonwealth, for public use, free from tolls and toll gates, and the assessment, upon the proper county, of the damages to which the owner or owners thereof may be entitled, by a jury of viewers, duly appointed by the court of quarter sessions of the proper county, and providing for the maintenance of any such condemned turnpike, road or highway by the proper city, township or district,' extending its provisions, so as to authorize the condemnation of any turnpike, road or highway, in whole or in part located upon the line dividing two counties, and to assess the damages, payable to the owner or owners thereof equitably between such two counties," approved the twenty-eighth day of April, one thousand eight hundred ninety-nine (P. L. 79).

An act entitled "An act amending section eight of an act, entitled 'An act in relation to the laying out, opening, widening, straighten-

ing, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom,' approved May sixteenth, Anno Domini one thousand eight hundred and ninety-one, extending the provisions of said act to the grading, paving, curbing, macadamizing, or improvement of parts of streets or alleys," approved the twenty-eighth day of April, one thousand eight hundred ninety-nine (P. L. 100).

An act entitled "An act to provide for the licensing of transient, retail merchants in cities, boroughs and townships, and providing a penalty for failure to obtain the same," approved the second day of May, one thousand eight hundred ninety-nine (P. L. 159).

An act entitled "An act making it lawful for any municipality, in which a corporation created and existing under and by virtue of the laws of this Commonwealth, have constructed and are maintaining, or may hereafter construct and maintain, sewers, culverts, conduits and pipes, with the necessary inlets and appliances, for surface, under surface and sewage drainage, to become the owner of such sewers, culverts, conduits and pipes, with the necessary inlets and appliances aforesaid; providing the amount to be paid for the same, and the manner of ascertaining such amount in case of disagreement between the municipality and the corporation owning the same," approved the nineteenth day of April, one thousand nine hundred one (P. L. 82).

An act entitled "An act authorizing borough councils or school boards of this Commonwealth to purchase, acquire, take, use and appropriate private property for public library purposes, and providing the manner in which damages sustained thereby shall be assessed and collected," approved the eleventh day of May, one thousand nine hundred one (P. L. 169).

An act entitled "An act to provide for the alteration of the boundaries of townships and boroughs in certain cases, and the adjustment of the indebtedness thereof," approved the eleventh day of May, one thousand nine hundred one (P. L. 177).

Section two of an act entitled "An act authorizing the abandonment by turnpike road or highway companies of such portion or portions of their turnpike roads or highways as are separated, as to ownership or possession, from the longest continuous portion thereof remaining in the possession or ownership of such companies after the

appropriation or condemnation to public use of an intermediate portion or portions thereof; also prescribing the method of making such abandonment and the giving of notice thereof to township authorities, and providing for the future disposition of such abandoned portion or portions of said turnpike roads or highways," approved the fourth day of June, one thousand nine hundred one (P. L. 359).

An act entitled "An act relating to railroad crossings of highways, and for the regulation, alteration and abolition of grade crossings, except in cities of the first and second classes," approved the seventh day of June, one thousand nine hundred one (P. L. 531).

An act entitled "An act authorizing and empowering boroughs and incorporated towns to take, use and appropriate private property for necessary public buildings and works within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding and paying compensation and damages therefor," approved the tenth day of June, one thousand nine hundred one (P. L. 555).

An act entitled "An act for the establishment and maintenance of public libraries in cities of the second and third class and in boroughs," approved the seventeenth day of June, one thousand nine hundred one (P. L. 569).

An act entitled "An act regulating the filing of reports of viewers, or juries of view, appointed by the courts of this Commonwealth to assess damages and benefits for the taking, injury or destruction of private property in the construction or enlargement of public works, highways or improvements," approved the eighteenth day of March, one thousand nine hundred three (P. L. 28).

An act entitled "An act authorizing councils, in boroughs and in cities of the second class and third class, within this Commonwealth, to issue subpoenas, and to take the testimony of witnesses in any pending case of inquiry, investigation, or impeachment; also providing for the compulsory production of books and papers, and a mode of compelling the attendance of witnesses, by attachment for contempt; and providing for the punishment of perjury, by witnesses so called," approved the nineteenth day of March, one thousand nine hundred three (P. L. 31).

An act entitled "An act amending section nine of an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property

resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom,' approved May sixteenth, Anno Domini one thousand eight hundred and ninety-one, enabling municipal corporations to lay out, open, widen, extend, and vacate streets or alleys, upon petition or without petition of property owners, as amended by the act approved the twenty-second day of May, Anno Domini one thousand eight hundred and ninety-five, providing for the approval of ordinances by the city recorder and the publication of the ordinances," approved the nineteenth day of March, one thousand nine hundred three (P. L. 35).

An act entitled "An act to provide for the confirmation of the reports of viewers, or juries of view, appointed by the courts of quarter sessions to assess damages and benefits, and for the collection of damages in such proceedings," approved the twenty-seventh day of March, one thousand nine hundred three (P. L. 83).

An act entitled "An act amending sections two and six of an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred ninety-one," approved the second day of April, one thousand nine hundred three (P. L. 124).

An act entitled "An act enabling the burgess and council of any borough or incorporated town, by ordinance, to annex to the borough or incorporated town adjacent territory upon petition of a majority of the freehold owners thereof," approved the twenty-second day of April, one thousand nine hundred three (P. L. 247).

An act entitled "An act to permit farmers to sell their own products without a license-fee, in and about the streets of any borough or city of this Commonwealth," approved the twenty-second day of April, one thousand nine hundred three (P. L. 258).

An act entitled "An act to further define the police power of cities of the third class and boroughs, with reference to electric light wires," approved the twenty-eighth day of April, one thousand nine hundred three (P. L. 335).

An act entitled "An act authorizing the municipalities of the Commonwealth to vacate, in whole or in part, all streets, lanes and alleys within their corporate limits, laid out by this Commonwealth, whenever the same, or the portion to be vacated, shall have remained unopened for a continuous period of thirty years next preceding such vacation," approved the twenty-first day of March, one thousand nine hundred five (P. L. 46).

An act entitled "An act providing for the payment of the expense of maintaining prisoners, committed to county prisons for non-payment of fines or penalties imposed for the violation of city or borough ordinances, or ordinances of townships of the first class, by the city, borough, or township of the first class, to which such fines are payable," approved the twenty-eighth day of March, one thousand nine hundred five (P. L. 61).

An act entitled "An act to provide for the vacation and closing of alleys, lanes, or passageways that are, or may hereafter become, public nuisances; and to compensate abutting property owners or others who may be damaged thereby, and assess benefits, if any there be," approved the seventeenth day of April, one thousand nine hundred five (P. L. 193).

An act entitled "An act supplementary to an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending or vacating streets and alleys, and the construction of bridges, in the several municipalities of this Commonwealth, the grading, paving, macadamizing or otherwise improving streets and alleys, providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs and expenses thereof upon the property benefited, and the construction of sewers and the payment of the damages, costs and expenses thereof, including the damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one; relating to exceptions and to the confirmation of the reports of viewers and of parts thereof, and of appeals to the Superior and Supreme Court from the confirmation of viewers' reports or parts thereof, the manner of taking the same and the effect thereof" approved the eighteenth day of April, one thousand nine hundred five (P. L. 198).

An act entitled "An act to provide for the repair and maintenance or improvement, by the proper county, city or borough, of turnpikes heretofore or hereafter appropriated or condemned, or any part thereof, for public use free of tolls," approved the twentieth day of April, one thousand nine hundred five (P. L. 237).

An act entitled "An act authorizing vacation of public highways at grade crossings over railroads, and the opening of undergrade or overgrade crossings in lieu thereof, by the court of quarter sessions," approved the twenty-second day of April, one thousand nine hundred five (P. L. 295).

An act entitled "An act authorizing the county commissioners of the several counties, or the town councils of the several boroughs, of this Commonwealth, or both, to appropriate annually a sufficient sum of money to each Post of the Grand Army of the Republic, in their respective counties or boroughs, to aid in defraying the expenses of Memorial Day," approved the twenty-first day of March, one thousand nine hundred seven (P. L. 22).

An act entitled "An act supplementary to an act, entitled 'An act enabling the burgess and council of any borough or incorporated town, by ordinance, to annex to the borough or incorporated town adjacent territory, upon petition of a majority of the freehold owners thereof,' approved the twenty-second day of April, one thousand nine hundred and three; enabling the burgess and council of any borough or incorporated town, by ordinance, to annex to the borough or incorporated town adjacent territory, in the same or an adjoining county, upon petition of a majority of the freehold owners thereof," approved the twenty-first day of March, one thousand nine hundred seven (P. L. 25).

An act entitled "An act fixing the pay of commissioners of roads, viewers, reviewers, and re-reviewers of roads and bridges, and commissioners appointed to run, establish or re-establish township lines, or to divide townships, or to divide townships into election districts, or boroughs into wards, in this Commonwealth," approved the fourth day of April, one thousand nine hundred seven (P. L. 44).

An act entitled "An act to amend section one of the act, approved May twenty-fifth, one thousand eight hundred and eighty-seven, entitled 'An act to authorize cities and boroughs to condemn property and rights, inside and outside of their limits, for the purpose of obtaining and supplying water,' so as to include springs," approved the fifteenth day of April, one thousand nine hundred seven (P. L. 90).

An act entitled "An act to amend the first section of an act, entitled 'An act to provide for the repair and maintenance or improvement, by the proper county, city, or borough of turnpikes heretofore or hereafter appropriated or condemned, or any part thereof, for public use free of tolls,' approved the twentieth day of April, Anno Domini one thousand nine hundred and five; providing for the repair and maintenance or improvement, by the proper county, city,

or borough, of turnpikes heretofore or hereafter abandoned, or any part thereof, and for the repair, maintenance, or improvement of any turnpike, or part thereof, where the company or association owning the same has been or may hereafter be dissolved," approved the twenty-fifth day of April, one thousand nine hundred seven (P. L. 104).

An act entitled "An act authorizing municipal corporations, owning their own water systems, to relocate roads destroyed by overflow of reservoirs, or otherwise, and to acquire land to preserve water-supply from contamination," approved the seventh day of May, one thousand nine hundred seven (P. L. 167).

An act entitled "An act exempting certain real estate from the power of eminent domain as exercised by corporations incorporated under the laws of Pennsylvania," approved the tenth day of May, one thousand nine hundred seven (P. L. 196).

An act entitled "An act providing for the payment of the premiums on bonds of county, city, borough, school-district, and township employes," approved the twenty-third day of May, one thousand nine hundred seven (P. L. 225).

An act entitled "An act to provide for the alteration of the boundaries of contiguous boroughs and townships within this Commonwealth, by detaching part or parts of the land embraced within the lines of any borough and annexing such territory to any adjacent or contiguous township or townships; and for adjustment of the indebtedness of the boroughs and townships affected by such change of boundaries or limits," approved the twenty-eighth day of May, one thousand nine hundred seven (P. L. 264).

An act entitled "An act to authorize municipalities or townships to make assessments for municipal improvements outside of their corporate limits, under certain conditions," approved the twenty-eighth day of May, one thousand nine hundred seven (P. L. 287).

An act entitled "An act to provide for the planting and care of shade-trees, on highways of townships of the first class, boroughs, and cities of the Commonwealth of Pennsylvania, and providing for the cost thereof," approved the thirty-first day of May, one thousand nine hundred seven (P. L. 349).

An act entitled "An act providing for the acquiring of water plants or systems by municipalities, from corporations, firms, or individuals, and the manner of ascertaining and arriving at the value of the same; and to authorize municipalities of this Commonwealth to issue bonds, secured by such water plants or systems, for the

payment thereof; and to provide a sinking-fund therefor, out of the revenues of said plants," approved the thirty-first day of May, one thousand nine hundred seven (P. L. 355).

An act entitled "An act to amend section one of an act, entitled 'An act authorizing and empowering borough and incorporated towns to take, use, and appropriate private property for necessary public buildings and works within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding and paying compensation and damages therefor,' approved June tenth, one thousand nine hundred and one; extending the provisions of the act to the taking, use and appropriation of private property for a filter plant," approved the first day of June, one thousand nine hundred seven (P. L. 365).

An act entitled "An act providing a method to secure possession of lands, buildings or other property acquired under the power of eminent domain," approved the seventh day of June, one thousand nine hundred seven (P. L. 461).

An act entitled "An act to provide for the vacation and closing of alleys, lanes, or passageways that are or may hereafter become public nuisances and to compensate abutting property owners or others who may be damaged thereby, and assess benefits if any there be," approved the eighth day of June, one thousand nine hundred seven (P. L. 503).

An act entitled "An act relating to armories for the National Guard of Pennsylvania; authorizing counties, cities, towns, boroughs, and other municipal divisions of the Commonwealth to provide and appropriate moneys, or purchase and convey land, or convey land owned by any county, city, town, borough or other municipal division of the Commonwealth, to assist the Armory Board in the erection of armories, and to furnish, free of cost to the Commonwealth, water, light, fuel, either or all, for use in any armory," approved the fifteenth day of March, one thousand nine hundred nine (P. L. 33).

An act entitled "An act authorizing municipalities to purchase or condemn public toll-bridges crossing rivers or streams within the limits thereof; and giving power to municipalities to charge and collect tolls or rentals, for the use of any such bridge, from railway, telephone, and telegraph companies, and other persons making a use thereof for other than ordinary public foot and vehicle travel; and providing for the preservation of existing contracts with such persons, and their assignment to such municipality," approved the twenty-fourth day of March, one thousand nine hundred nine (P. L. 67).

An act entitled "An act to amend an act approved the fourth day of April, Anno Domini one thousand nine hundred and seven, entitled 'An act providing for the recovery and collection of municipal claims by lien or by action of assumpsit,' by conferring jurisdiction upon justices of the peace, in such cases," approved the twenty-fifth day of March, one thousand nine hundred nine (P. L. 78).

An act entitled "An act to permit the acquisition of forest or other suitable lands by municipalities, for the purpose of establishing municipal forests; and providing for the administration, maintenance, protection, and development of such forests," approved the twenty-second day of April, one thousand nine hundred nine (P. L. 124).

An act entitled "An act to amend sections five and six of an act, entitled 'An act providing for the acquiring of water plants or systems by municipalities, from corporations, firms, or individuals, and the manner of ascertaining and arriving at the value of the same; and to authorize municipalities of this Commonwealth to issue bonds, secured by such water plants or systems, for the payment, thereof; and to provide a sinking-fund therefor, out of the revenues of said plants,' approved May thirty-first, one thousand nine hundred and seven; limiting the liability of municipalities on the bonds issued for such water plants or systems, and providing that the bonds mentioned in said act shall be payable in thirty years from the date of their issue," approved the twenty-second day of April, one thousand nine hundred nine (P. L. 135).

An act entitled "An act to empower township and borough auditors to employ an attorney, and providing for their compensation," approved the twenty-seventh day of April, one thousand nine hundred nine (P. L. 261).

An act entitled "An act to amend sections one and two of an act, entitled 'A supplement to an act, entitled "An act supplementary to an act relative to burial-grounds and cemeteries situated in incorporated boroughs, approved the nineteenth day of May, one thousand eight hundred and seventy-four, changing the title of said act, and authorizing the court to make orders and decrees required by the act, and to enforce the same by process," approved the thirteenth day of May, eighteen hundred and seventy-six, further empowering courts to direct removal of remains in boroughs, cities and towns from burial grounds where interments have ceased or have become so neglected as to become a public nuisance, or such remains interfere with the improvements, extensions, and interests of such cities, boroughs, or towns,' by further providing that such removal may be authorized when said lands shall be desired by said munici-

palities, or the school districts thereof, for the erection of municipal, school or public library buildings thereon, or for any other public purpose," approved the twenty-ninth day of April, one thousand nine hundred nine (P. L. 291).

An act entitled "An act relating to the settlements and audits of the accounts of all officers of boroughs, townships, poor districts, and school districts, and appeals therefrom to the common pleas and thence to the Supreme and Superior Courts, and providing a penalty for violations thereof," approved the third day of May, one thousand nine hundred nine (P. L. 392).

An act entitled "An act authorizing townships of the first class and boroughs of this Commonwealth to acquire, by taking and appropriating under right of eminent domain, and by gift, devise, purchase, lease and otherwise, private property, for the purpose of making, enlarging, extending, and maintaining public parks, parkways, and playgrounds; requiring the consent of the qualified electors to such acquiring in certain cases, and providing the procedure for obtaining such consent; authorizing the said townships and boroughs to improve, maintain, and regulate such parks, parkways and playgrounds; and providing for the manner of securing, ascertaining, determining, awarding, and paying compensation and damages where property is taken, used, and appropriated for the said purposes," approved the third day of May, one thousand nine hundred nine (P. L. 401).

An act entitled "A supplement to an act, entitled 'An act relating to roads, highways and bridges,' approved the thirteenth day of June, Anno Domini eighteen hundred and thirty-six," approved the fifth day of May, one thousand nine hundred eleven (P. L. 123).

An act entitled "An act to amend section one of 'An act authorizing and empowering boroughs and incorporated towns to take, use, and appropriate private property for necessary public buildings and works within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding, and paying compensation and damages, therefor,' approved the tenth day of June, one thousand nine hundred and one, so as to extend the same to townships of the first class," approved the fifth day of May, one thousand nine hundred eleven (P. L. 168).

An act entitled "An act to empower any taxpayer of any township, borough, poor district, or school district, upon providing for costs, to appeal in behalf of such municipality to the court of common pleas of the proper county, from the judgment of any justice of the peace or alderman against such municipality, and to become a party to such suit," approved the eleventh day of May, one thousand nine hundred eleven (P. L. 208).

An act entitled "An act providing for the payment of the costs of proceedings and the expenses of maintaining prisoners committed to county prisons, either for non-payment of fines or penalties imposed for, or while awaiting a hearing upon, any charge for the violation of any city or borough ordinance, or any ordinance of townships of the first class, by the city, borough, or township of the first class whose ordinances are alleged to have been violated, or to which any such fines or penalties are payable," approved the seventh day of June, one thousand nine hundred eleven (P. L. 677).

An act entitled "An act fixing the time for organization of the legislative departments of municipal governments, and for the inauguration of mayors of cities," approved the ninth day of June, one thousand nine hundred eleven (P. L. 857).

An act entitled "An act to amend the first section of an act, approved the twenty-first day of March, Anno Domini one thousand nine hundred and seven, entitled 'An act authorizing the county commissioners of the several counties, or the town councils of the several boroughs, of this Commonwealth, or both, to appropriate annually a sufficient sum of money to each Post of the Grand Army of the Republic, in their respective counties or boroughs, to aid in defraying the expenses of Memorial Day,' by requiring the commissioners to make the payments specified, and fixing the maximum amount thereof," approved the ninth day of June, one thousand nine hundred eleven (P. L. 863).

An act entitled "An act relating to the settlement and audit of the accounts of all officers, elected or appointed, of boroughs, townships, poor districts, and school districts; prescribing the time for such settlement and audits, for the matters to be contained in the report of settlement and audit, for the filing of said report in the office of the clerk of quarter sessions, and for appeals to the court of common pleas and Superior and Supreme Courts," approved the ninth day of June, one thousand nine hundred eleven (P. L. 865).

An act entitled "An act providing a system whereby boroughs may build sewers; grade, sub-grade, and pave streets and alleys; pay the costs thereof by the issue of bonds, and collect the same from the property benefited, in instalments," approved the fifteenth day of June, one thousand nine hundred eleven (P. L. 971).

An act entitled "An act to amend the second section of an act, approved the twenty-fifth day of May, Anno Domini one thousand eight hundred and eighty-seven, entitled 'An act to authorize cities and boroughs to condemn property and rights, inside and outside of their limits, for the purpose of obtaining and supplying water,' by fixing the number of the viewers at three," approved the nineteenth day of June, one thousand nine hundred eleven (P. L. 1033).

An act entitled "An act to amend the first section of an act, approved the eighth day of June, Anno Domini one thousand nine hundred and seven, entitled 'An act to provide for the vacation and closing of alleys, lanes, or passageways that are, or may hereafter become, public nuisances, and to compensate abutting property owners or others who may be damaged thereby, and assess benefits if any there be,' by fixing the number of the jury at three," approved the nineteenth day of June, one thousand nine hundred eleven (P. L. 1036).

An act entitled "An act to amend the first section of an act, approved the seventeenth day of April, Anno Domini one thousand nine hundred and five, entitled 'An act to provide for the vacation and closing of alleys, lanes, or passageways that are, or may hereafter become, public nuisances; and to compensate abutting property owners or others who may be damaged thereby, and assess benefits if any there be,' by fixing the number of the jury at three," approved the twentieth day of June, one thousand nine hundred eleven (P. L. 1087).

An act entitled "An act to amend the first section of an act, approved the tenth day of June, one thousand nine hundred one, entitled 'An act authorizing and empowering boroughs and incorporated towns to take, use, and appropriate private property for necessary public buildings and work within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding, and paying compensation and damages therefor,' as amended by the first section of an act, approved the fifth day of May, one thousand nine hundred eleven, entitled 'An act to amend section one of "An act authorizing and empowering boroughs and incorporated towns to take, use, and appropriate private property for necessary public buildings and works within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding, and paying compensation and damages therefor," approved the tenth day of June, one thousand nine hundred and one, so as to extend the same to townships of the first class,' by extending the act to include townships of the second class," approved the fifteenth day of April, one thousand nine hundred thirteen (P. L. 66).

An act entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," approved the first day of May, one thousand nine hundred thirteen (P. L. 155).

An act entitled "A supplement to an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending, or vacating streets and alleys, and the construction of bridges, in

the several municipalities of this Commonwealth; the grading, paving, macadamizing, or otherwise improving, streets and alleys; providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs, and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs, and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one; empowering municipalities to locate streets and alleys, and to include therein streets and alleys, or parts thereof, theretofore opened or used for highway purposes," approved the fifteenth day of May, one thousand nine hundred thirteen (P. L. 212).

An act entitled "A supplement to an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending, or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth; the grading, paving, macadamizing, or otherwise improving, streets and alleys, providing for ascertaining damages to private property resulting therefrom; the assessment of the damages, costs, and expenses thereof upon the property benefited; and the construction of sewers, and payment of the damages, costs, and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one (Pamphlet Laws, seventy-five); by providing that, in proceedings to assess damages and benefits arising from improvements under the act to which this is a supplement, if property is both benefited and damaged by such improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the owners of property, and providing that the report thereof made by the Board of Viewers shall show the net result only," approved the fifteenth day of May, one thousand nine hundred thirteen (P. L. 215).

An act entitled "An act requiring a license for conducting any business the whole or greater part of which shall consist of the sale of goods which shall be held forth, represented, or advertised to be goods of, or obtained from, the estate of any bankrupt; or goods of, or obtained from, an assignee, or a person, firm, or corporation about to go out of business; or goods to have been damaged in any way; and regulating such licensing, and fixing a penalty for violation of this act," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 227).

An act entitled "An act to amend the title, the first section, the second section, and the third section of an act of Assembly, entitled 'An act relating to the settlement and audit of the accounts of all

An act entitled "An act to amend the first section of an act, approved the eighth day of June, Anno Domini one thousand nine hundred and seven, entitled 'An act to provide for the vacation and closing of alleys, lanes, or passageways that are, or may hereafter become, public nuisances, and to compensate abutting property owners or others who may be damaged thereby, and assess benefits if any there be,' by fixing the number of the jury at three," approved the nineteenth day of June, one thousand nine hundred eleven (P. L. 1036).

An act entitled "An act to amend the first section of an act, approved the seventeenth day of April, Anno Domini one thousand nine hundred and five, entitled 'An act to provide for the vacation and closing of alleys, lanes, or passageways that are, or may hereafter become, public nuisances; and to compensate abutting property owners or others who may be damaged thereby, and assess benefits if any there be,' by fixing the number of the jury at three," approved the twentieth day of June, one thousand nine hundred eleven (P. L. 1087).

An act entitled "An act to amend the first section of an act, approved the tenth day of June, one thousand nine hundred one, entitled 'An act authorizing and empowering boroughs and incorporated towns to take, use, and appropriate private property for necessary public buildings and work within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding, and paying compensation and damages therefor,' as amended by the first section of an act, approved the fifth day of May, one thousand nine hundred eleven, entitled 'An act to amend section one of "An act authorizing and empowering boroughs and incorporated towns to take, use, and appropriate private property for necessary public buildings and works within the corporate limits of such municipality; and providing for the manner of ascertaining, determining, awarding, and paying compensation and damages therefor," approved the tenth day of June, one thousand nine hundred and one, so as to extend the same to townships of the first class,' by extending the act to include townships of the second class," approved the fifteenth day of April, one thousand nine hundred thirteen (P. L. 66).

An act entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," approved the first day of May, one thousand nine hundred thirteen (P. L. 155).

An act entitled "A supplement to an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending, or vacating streets and alleys, and the construction of bridges, in

the several municipalities of this Commonwealth; the grading, paving, macadamizing, or otherwise improving, streets and alleys; providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs, and expenses thereof upon the property benefited, and the construction of sewers and payment of the damages, costs, and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one; empowering municipalities to locate streets and alleys, and to include therein streets and alleys, or parts thereof, theretofore opened or used for highway purposes," approved the fifteenth day of May, one thousand nine hundred thirteen (P. L. 212).

An act entitled "A supplement to an act, entitled 'An act in relation to the laying out, opening, widening, straightening, extending, or vacating streets and alleys, and the construction of bridges in the several municipalities of this Commonwealth; the grading, paving, macadamizing, or otherwise improving, streets and alleys, providing for ascertaining damages to private property resulting therefrom; the assessment of the damages, costs, and expenses thereof upon the property benefited; and the construction of sewers, and payment of the damages, costs, and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one (Pamphlet Laws, seventy-five); by providing that, in proceedings to assess damages and benefits arising from improvements under the act to which this is a supplement, if property is both benefited and damaged by such improvements, the excess of damages over benefits, or the excess of benefits over damages, or nothing in case the benefits and damages are equal, shall be awarded to or assessed against the owners of property, and providing that the report thereof made by the Board of Viewers shall show the net result only," approved the fifteenth day of May, one thousand nine hundred thirteen (P. L. 215).

An act entitled "An act requiring a license for conducting any business the whole or greater part of which shall consist of the sale of goods which shall be held forth, represented, or advertised to be goods of, or obtained from, the estate of any bankrupt; or goods of, or obtained from, an assignee, or a person, firm, or corporation about to go out of business; or goods to have been damaged in any way; and regulating such licensing, and fixing a penalty for violation of this act," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 227).

An act entitled "An act to amend the title, the first section, the second section, and the third section of an act of Assembly, entitled 'An act relating to the settlement and audit of the accounts of all

officers, elected or appointed, of boroughs, townships, poor districts, and school districts; prescribing the time for such settlement and audits, for the matters to be contained in the report of settlement and audit, for the filing of said report in the office of the clerk of quarter sessions, and for appeals to the court of common pleas and Superior and Supreme Courts,' approved the ninth day of June, Anno Domini one thousand nine hundred and eleven; by repealing so much thereof as applies to school districts," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 254).

An act entitled "An act to amend section one of an act, approved the third day of May, Anno Domini one thousand nine hundred and nine, entitled 'An act authorizing townships of the first class and boroughs of this Commonwealth to acquire, by taking and appropriating under right of eminent domain, and by gift, devise, purchase, lease, and otherwise, private property, for the purpose of making enlarging, extending, and maintaining public parks, parkways, and playgrounds; requiring consent of the qualified electors to such acquiring in certain cases, and providing the procedure for obtaining such consent; authorizing the said townships and boroughs to improve, maintain, and regulate such parks, parkways, and playgrounds; and providing for the manner of securing, ascertaining, determining, awarding, and paying compensation and damages where property is taken, used and appropriated for the said purposes,' by changing the limitations of the amount of money which such township or borough, in the exercise of the authority granted by said act, shall, within any period of three years, obligate itself to pay, without the consent of a majority of the qualified electors," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 257).

An act entitled "An act amending an act, entitled 'An act providing a system whereby boroughs may build sewers; grade, subgrade, and pave streets and alleys; pay the costs thereof by the issue of bonds, and collect the same from the property benefited, in instalments,' approved June fifteen, Anno Domini one thousand nine hundred and eleven, by extending the provisions thereof so as to include the acquisition by boroughs and incorporated towns of existing sewers and sewer systems," approved the twenty-first day of May, one thousand nine hundred thirteen (P. L. 277).

An act entitled "An act permitting counties, cities, and boroughs, singly or jointly, of the Commonwealth of Pennsylvania, to appropriate and expend moneys for the improvement of highways outside the limits of such cities or boroughs, for the purpose of connecting improved streets of such cities or boroughs with a State highway or State-aid highway, when the highway outside of the limits

of such cities or boroughs is less than one mile in length, and will connect such cities or boroughs with the State highway or State-aid highway," approved the twenty-third day of May, one thousand nine hundred thirteen (P. L. 336).

An act entitled "An act giving to all owners or tenants of lands, property, or material, abutting on, or through which pass, roads, streets, lanes, or alleys injured by the laying out, opening, widening, vacating, extending, or grading of said roads, streets, lanes, or alleys, or the changing of grades and lines thereof, by cities, counties, boroughs or townships, within this Commonwealth; the construction and the vacating by said cities, counties, boroughs or townships of bridges, and the piers, abutments, approaches, embankments, slopes or causeways, therefor, or leading thereto, which abut on or pass through or along said lands, property, or material; and the construction by said cities, counties, boroughs, or townships of sewers in, over, upon, along, or through said lands, property, or material, the right to damages for said injuries; directing all juries of view appointed, or that shall hereafter be appointed, under existing laws for assessing damages or benefits for taking, using, occupying, or injuring lands, property or material, to assess said damages, if any, against said cities, counties, boroughs or townships, as the case may be, and the benefits, if any, in connection therewith; granting the right of appeal to the proper court of common pleas from the report of said juries, and the trial by jury in said court of common pleas, and the right to file exceptions to said report; and the right of appeal to the Superior Court or Supreme Court, after disposal of exceptions, or verdict and final judgment; and providing that this act shall apply to all existing and future proceedings," approved the twenty-eighth day of May, one thousand nine hundred thirteen (P. L. 368).

An act entitled "An act relating to the reports of auditors of boroughs, townships, and poor districts, and appeals therefrom; giving certain powers to taxpayers in connection therewith; and prescribing the practice to be pursued in all appeals from such auditors' reports," approved the thirty-first day of May, one thousand nine hundred thirteen (P. L. 394).

An act entitled "An act to authorize the display of the State, county, city, borough, or other municipal flags on public buildings in the Commonwealth," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 419).

An act entitled "An act establishing a Commission of Water-works, in boroughs and incorporated towns of this Commonwealth; providing for the appointment of Commissioners of Water-works and prescribing their powers and duties," approved the fifth day of June, one thousand nine hundred thirteen (P. L. 445).

An act entitled "An act amending the first section of an act, entitled 'An act to further define the police power of cities of the third class and boroughs, with reference to electric light wires,' approved the twenty-eighth day of April, one thousand nine hundred and three, so as to include telegraph and telephone wires, and reducing the number of jurors," approved the twelfth day of June, one thousand nine hundred thirteen (P. L. 488).

An act entitled "An act relating to damages in case of taking of property for use as a public wharf, pier, or bulkhead," approved the twentieth day of June, one thousand nine hundred thirteen (P. L. 543).

An act entitled "An act authorizing the several counties, incorporated towns, and boroughs to appropriate annually sums of money to each camp of the United Spanish War Veterans, and of the Army of the Philippines, and to each post of the American Veterans of Foreign Service, in the respective counties, boroughs, and towns, to aid in defraying the expenses of Memorial Day," approved the twenty-fifth day of June, one thousand nine hundred thirteen (P. L. 550).

An act entitled "An act to authorize all cities and boroughs in the Commonwealth of Pennsylvania to construct and maintain comfort and waiting-stations and drinking-fountains in the public highways of such municipalities, and providing the manner of ascertaining and collecting the damages caused by the construction of such improvements," approved the twenty-seventh day of June, one thousand nine hundred thirteen (P. L. 632).

An act entitled "An act to permit viewers to award damages, for the vacation of streets, roads, or highways, to abutting owners, where no land is actually taken," approved the twenty-seventh day of June, one thousand nine hundred thirteen (P. L. 633).

An act entitled "An act amending and supplementing an act, entitled 'An act making it lawful for any municipality, in which a corporation created and existing under and by virtue of the laws of this Commonwealth have constructed and are maintaining, or any hereafter construct and maintain, sewers, culverts, conduits, and pipes, with the necessary inlets and appliances for surface, under surface and sewage drainage, to become the owner of such sewers, culverts, conduits, and pipes, with the necessary inlets and appliances aforesaid; providing the amount to be paid for the same, and the manner of ascertaining such amount in case of disagreement between the municipality and the corporation owning the same,' approved April nineteenth, one thousand nine hundred and one, by extending the provisions thereof to sewers, culverts, conduits and pipes,

with the necessary inlets and appliances, owned by individuals and unincorporated associations; and providing for the assessment of the costs and expenses of the property, so acquired, upon the properties benefited thereby or upon the proper municipality," approved the twenty-first day of July, one thousand nine hundred thirteen (P. L. 865).

An act entitled "An act to amend an act entitled 'An act in relation to the laying out, opening, widening, straightening, extending, or vacating streets and alleys, and the construction of bridges, in the several municipalities of this Commonwealth; the grading, paving, macadamizing, or otherwise improving streets and alleys; providing for ascertaining the damages to private property resulting therefrom, the assessment of the damages, costs, and expenses thereof upon the property benefited, and the construction of sewers, and payment of the damages, costs, and expenses thereof, including damages to private property resulting therefrom,' approved the sixteenth day of May, Anno Domini one thousand eight hundred and ninety-one," approved the twenty-second day of July, one thousand nine hundred thirteen (P. L. 902).

An act entitled "An act conferring certain powers upon municipalities of this Commonwealth in and on the public wharves within the limits of such municipalities," approved the twenty-fourth day of July, one thousand nine hundred thirteen (P. L. 1017).

An act entitled "An act regulating the mining out and removing of the coal and other minerals and support underlying and beneath the surface of the several streets, avenues, thoroughfares, courts, alleys, places, and public highways within the limits of the several municipal corporations, and authorizing the creation of a Bureau of Mine Inspection and Surface Support by any municipal corporation, within the anthracite coal fields of this Commonwealth, and giving such bureau jurisdiction, and providing for the filing of certain maps and plans, and providing a penalty for violation thereof," approved the twenty-sixth day of July, one thousand nine hundred thirteen (P. L. 1439).

(d) THE FOLLOWING ACTS AND PARTS OF ACTS ARE REPEALED IN SO FAR AS THEY CONFER ANY POWERS OR IMPOSE ANY DUTIES ON BOROUGHS VIZ:—

An act entitled "An act to provide for the erection and maintaining of watering troughs for the use of horses and cattle on the public roads of this Commonwealth, and providing penalties for the injury and destruction of the same," approved the twenty-eighth day of April, one thousand eight hundred seventy-six (P. L. 51).

viding for the compensation therefor and the damage resulting from such taking; providing for the payment of the costs and expenses incurred in making such improvements, and in thereafter repairing and maintaining said road, and authorizing the levy of a tax to provide a fund for such purposes," approved June twenty-sixth, one thousand eight hundred and ninety-five; providing that public roads and highways may be constructed, improved, and maintained by the several counties of the Commonwealth as county roads, whether existing by other authority or laid out in whole or in part by virtue of this act; and providing that public roads and highways may be originally located, laid out, and established for the purpose of such construction, improvement and maintenance by the several counties, in the manner and by the procedure set out in the amended act, and subject to other provisions thereof; providing for the laying out of a system of main thoroughfares, to which the establishing, construction, improvement and maintenance of public roads by the counties shall be restricted after January one, one thousand nine hundred and seven; but providing for such establishing, construction, improvement and maintenance of roads not part of said system, upon parties interested paying not less than one-fourth of the original cost of construction; and providing that the county commissioners of any county may provide rules regulating the use of roads constructed and maintained by the counties; and prescribing the penalties for the violation thereof,' and providing that public roads and highways located, established, constructed and improved by the several counties, in the manner and by the procedure set out in the said acts, shall thereafter be township or borough roads, and be maintained and improved by the proper township or borough," approved the thirteenth day of May, one thousand nine hundred nine (P. L. 527).

Section eighteen of an act entitled "An act providing for the original location, laying out and construction of public roads or highways in the several counties of this Commonwealth, and for the permanent improvement of certain public roads or highways therein; making such originally constructed or improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension and alteration of the same, and the vacation of so much of any road as may thereby become unnecessary; providing that the county commissioners of any county may prescribe rules regulating the use of roads constructed or maintained by the various counties, and prescribing penalties for the violation thereof; providing for the taking of property for such improvement, the compensation to be paid therefor, and the payment of damages resulting from such taking, and the manner in which such damages may be determined; providing for the payment of the costs and expenses of such

construction or improvement and in thereafter repairing and maintaining said roads; authorizing the levy of a tax or the issuing of bonds to provide a fund for the expense thereof; prescribing a method for improving a county road lying within or traversing a borough, and apportioning the cost of such improvement; and authorizing the vacation of any county road," approved the eleventh day of May, one thousand nine hundred eleven (P. L. 244).

An act entitled "An act authorizing boroughs to unite with boroughs or townships in constructing or acquiring and maintaining works for supplying water to such boroughs or townships," approved the first day of June, one thousand nine hundred eleven (P. L. 541).

An act entitled "An act to amend the first and second sections of an act, approved the first day of May, Anno Domini one thousand nine hundred and nine, entitled 'An act to authorize municipalities to unite in the construction of a sewage system, and to permit municipalities to form corporations for the purpose of constructing a sewage system,' by including townships," approved the fifteenth day of June, one thousand nine hundred eleven (P. L. 966).

An act entitled "An act providing a method whereby highways, the center line of which constitutes a dividing line between a city or borough and a township in the same county, may be altered or improved and the cost thereof apportioned," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 267).

First four paragraphs of section one of an act entitled "An act to amend section eighteen of an act, entitled 'An act providing for the original location, laying out, and construction of public roads or highways in the several counties of this Commonwealth, and for the permanent improvement of certain public roads or highways therein; making such originally constructed or improved roads and highways county roads; authorizing the relocation, opening, straightening, widening, extension and alteration of the same, and the vacation of so much of any road as may thereby become unnecessary; providing that the county commissioners of any county may prescribe rules regulating the use of roads constructed or maintained by the various counties, and prescribing penalties for the violation thereof; providing for the taking of property for such improvement, the compensation to be paid therefor, and the payment of damages resulting from such taking, and the manner in which such damages may be determined; providing for the payment of the costs and expenses of such construction or improvement and in thereafter repairing and maintaining said roads; authorizing the levy of a tax or the issuing of bonds to provide a fund for the expense thereof; prescribing a method for improving a county road lying within or traversing a borough, and apportioning the cost of such improve-

ment; and authorizing the vacation of any county road,' approved the eleventh day of May, Anno Domini one thousand nine hundred and eleven; by authorizing counties to contract with boroughs in the improvement of a borough street connecting with a county road; providing for the cost thereof; prescribing the method by which the contract for such improvement shall be made; and imposing the cost of maintenance of such street on the borough," approved the twentieth day of May, one thousand nine hundred thirteen (P. L. 273).

(e) THE FOLLOWING ACT OF ASSEMBLY IS REPEALED IN SO FAR AS IT RELATES TO HIGH CONSTABLE, VIZ.:—

An act entitled "An act to amend an act, entitled 'An act to authorize the election of constables for three years,' approved the fourteenth day of February, Anno Domini one thousand eight hundred eighty-nine, by providing for the election of a high constable in each of the boroughs of this Commonwealth for three years, and by correcting the ambiguity as to the beginning of the terms of office under said act," approved the twenty-sixth day of June, one thousand eight hundred ninety-five (P. L. 375).

(f) ALL ACTS OR PARTS OF ACTS OF ASSEMBLY SUPPLIED BY, INCONSISTENT WITH, OR APPERTAINING TO THE SUBJECT MATTER COVERED BY THIS ACT, ARE REPEALED. IT IS THE INTENTION THAT THIS ACT SHALL FURNISH A COMPLETE AND EXCLUSIVE SYSTEM FOR THE GOVERNMENT AND REGULATION OF BOROUGHS.